

## The Russian Federation

### **[Risk Warning]**

Russia applies mandatory certification to imported products such as foodstuffs, household electrical appliances, electronics, cosmetics, furniture, toys and ceramics. Russia does not recognize the relevant international standards, and all imported products must be GOST-certified before they are allowed to enter the Russian market. The Russian mandatory certification standards are multifarious and complicated, 70% of which are not in line with corresponding international standards, and its safety standards in certain areas are higher than those of many developed countries. The relevant Chinese enterprises exporting to Russia should pay close attention to the laws and regulations regarding product certification.

Since May, 2006, Russia has raised its export tariff on logs many times. Considering the impact of the global financial crisis, Russia has decided to postpone its plan to increase by 2009 its export tariff on logs to 80% so as to promote its exports. However, Russia's export tariff on logs is expected to rise in 2010 to 80% or 50 euro per cubic meter, whichever is higher. Chinese wood importing enterprises are reminded to keep a close watch on the change of export tariff on logs in Russia and make an appropriate arrangement of their imports in order to reduce import costs.

### **1 Bilateral Trade and Investment**

According to the statistics released by China Customs, the total volume of bilateral trade between China and Russia reached US\$ 38.8 billion in 2009, down 31.8% from the previous year, among which China's exports to Russia amounted to US\$ 17.51 billion, a decrease of 47.1%, while its imports from Russia came out at US\$ 21.28 billion, down 10.7%. China held a trade deficit of US\$ 3.77 with Russia. China's exports to Russia included mechanical and electronic products, footwear, textile and apparel, leathers, furniture, automobiles, and other products. China mainly imported from Russia mineral fuels, iron and steel, nickel and its products, seafood, wood, and chemicals.

According to China's Ministry of Commerce (hereinafter referred to as MOFCOM), in 2009, the turnover of engineering contracts completed by Chinese companies in Russia reached US\$ 884 million, and the volume of newly signed contracts arrived at US\$1.094 billion. The volume of completed labor service contracts ran into US\$ 115 million, and the volume of newly signed contracts stood at US\$ 114 million.

China's total non-financial investment in Russia, approved by or filed with MOFCOM, reached US\$ 413 million in 2009.

According to MOFCOM, Russian investors invested in 94 projects in China in 2009, with a contractual volume of US\$ 179 million and an actual utilization of US\$ 31.77 million.

## 2 Russia's Trade and Investment Regime

### 2.1 Trade Administration Regime and Its Developments

In order to apply for a membership in the World Trade Organization (WTO), Russia decided to join the WTO as part of a unified customs territory with neighbors Belarus and Kazakhstan. In August, 2009, Russia, Belarus and Kazakhstan formally set up a unified working party for WTO accession negotiations, planning to restart its accession bid.

Russia's laws and regulations related to trade administration consist mainly of *the Law on State Adjustment of Foreign Economic Activity, the Customs Code of the Russian Federation, the Law on Adjustment of Technology, the Federal Law on Special Safeguard, Anti-dumping and Countervailing Measures Against Imports, the Law on Adjustment and Surveillance of Foreign Exchange, and the Law on the Measures Protecting State Economic Interests in Foreign Trade*. Other principal laws and regulations include *the Law on Lease, the Law on the Certification of Goods and Services, the Law on Goods Identification, Services Identification and Naming Origins of Goods, the Law on Export Surveillance, the Federal Guidance on Export Development, the Directory of Federal Tariff Code and Foreign Trade Commodities, the Federal Law on Franchising, the Law on Electronic and Digital Signature, the Regulation on the Surveillance of Exports of Dual-use Goods and Technologies from the Russian Federation, the Regulation on the Licensing System for Foreign Trade in Commodities and on the Incorporation of Licensed Banks, the Regulation on the Import and Export of Pharmaceuticals, and the Regulation on Supervision over Customs Houses in Respect of the Implementation of the Relevant Laws on the Calculation and Collection of Customs Duties and on the Determination of Customs Values*.

In 2009, the Russian State Duma, the lower house of the Federal Assembly of Russia, set up a special Law Revision Commission, examined and revised the draft amendments to *the Law on State Adjustment of Foreign Economic Activity* submitted by the Russian government, and put forward new suggestions on the draft amendments.

#### 2.1.1 Tariff Regime

Generally, ad valorem duties apply to the imports in Russia, while specific duties or compound duties apply to approximately 10% of the imports including clothing, shoes and hats, luggage, plastic products, phonograph records, video cassettes, and certain electrical home appliances. Currently, Russia's ad valorem duty rates are divided into five levels: 0%, 5%, 10%, 15% and 20%, with a weighted average tariff rate of 12.4%.

According to the Russian Tariff Schedule, Russia levies the most-favored-nation (MFN) tariff rate on imports from countries accorded MFN status, but imports from other non-MFN countries are subject to a tariff rate twice as high as the MFN rate. Imports from countries under the Generalized System of Preferences (GSP) scheme, least developed countries (LDCs), and members of the Commonwealth of Independent States (CIS) that have signed free trade agreements with Russia enjoy preferential customs duties. Specifically, imports from CIS members which have entered into free trade agreements with Russia and LDCs are exempt from

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import customs duties, and imports from GSP countries are subject to customs duties at 75% of the MFN tariff rate.

According to the *Basic Guidelines for Customs Policy for 2008-2010* approved in 2007, Russia has been gradually lowering import customs duties on certain specific goods, including offshore drilling rigs, nuclear reactor facilities, aircraft parts, flight simulators for civil aviation, medical instruments, metalworking equipments, audio equipments and digital cameras, mobile phone batteries, and child safety seats. Russia is planning to cut the average customs duties on imports from 12.9% down to 11.5% by the end of 2010, among which industrial goods will enjoy the biggest cut in customs duties (from 10% to 7.6%), while agricultural products will have the smallest cut (from 18.6% to 18%).

After removing import customs duties on goods such as coke, polyethylene (PE), tea, certain pelts in the rough, raw materials and equipment for making spectacle frames, digital cameras, liquid crystal displays (LCD) and plasma screen displays, and lowering import customs duties on goods such as garments and hats in 2008, Russia again decreased import customs duties on some specific imports in 2009.

According to government decree No. 329 of April 15, 2009, Russia decided to extend for a period of 9 months its zero-tariff policy on child car safety seats. On November 14, 2009, the Russian Prime Minister Vladimir Putin signed government decree No. 931, prolonging its zero tariff rate on specific types of high-speed electromotive carriages (Russian customs code numbers 8605 00 00 1 and 8603 10 00 1) for 9 months. On November 11, 2009, the Russian Prime Minister signed government decree No. 933, temporarily lowering the import customs duties on non-plastic spectacle frame parts from 15% to 0% for 9 months.

According to government decree No. 936, Russia has eliminated its import customs duties on natural rubbers, technically classified natural rubbers (customs code number 4001 22 000 0) and other rubbers (customs code number 4001 29 000 0). To stimulate domestic automobile manufacturing, Russia lowered import customs duties on steels of thickness less than 0.35 mm, width less than 60 cm and nickel content less than 2.5%, and abolished import customs duties on cold rolled sheets with thickness of 0.5 mm to 1.0 mm, effective from 2009.

From January 1, 2010, Russia within the unified customs tariff framework of the customs union between Russia, Kazakhstan and Belarus further lowered import customs duties on a wide range of electromechanical goods for daily use: import duties on dishwashers and air conditioners were eliminated; import duties on small household appliances such as vacuum cleaners, blenders, juice extractors, and hair clippers were lowered from 15% to 10%; import duty on microwave ovens was lowered from 20% to 15%; import duties on electrical appliances such as electrical stoves, ovens and toasters were lowered from 15% to 10%; import duties on hair dryers, hand dryers and steam irons were lowered from 15% to 10%; import duties on DVD players and radio receivers were lowered from 10% to 5%, excluding mobile phones, earphones, microphones, stereo systems, micro digital recorders, and U-discs.

Pursuant to the *Customs Code of the Russian Federation*, imports and exports are subject to import and export customs duties, and imports are also subject to the value-added tax (VAT) and the excise tax (unless otherwise stipulated). According to the *Tax Code of the Russian Federation*, a 10% VAT is imposed on imports such as certain foodstuffs and children's products, and other imports are subject to VAT at 18%. Goods subject to excise taxes include raw alcohol and products thereof; edible alcohol and products thereof; tobacco products; cars, motorcycles with an engine capacity of 112.5 KW, gasoline, diesel fuel, engine oil, and straight-run gasoline.

### **2.1.2 Import Administration Regime**

Since 1993, Russia has gradually relaxed its restrictions on imports. Currently, except for a small number of goods which still require import licensing, state registration, mandatory certification, and sanitary and phytosanitary measures, other goods can be imported freely.

According to the *Law on Licenses and Quotas on Imports and Exports*, Russia applies import licensing to products affecting state security and human health such as arms and ammunitions, nuclear technology, radioactive materials, pharmaceutical raw materials and products thereof, narcotics, food ingredients, alcohol for human consumption, chemical pesticides, toxicants, and industrial wastes, and applies quotas to pork, beef, poultry and other agricultural products.

Pursuant to the *Customs Code of the Russian Federation*, such imports as radioactive substances, chemical and biological agents, industrial wastes, and certain products imported into Russia for the first time, particularly food products, are subject to state registration before importation; such imports as animals and plants and products thereof, food, alcoholic and non-alcoholic beverages, textile materials and products thereof, machinery and audio-visual equipment are subject to compulsory certification; imports for industrial, agricultural, civil engineering, and other purposes are subject to sanitary and phytosanitary (SPS) measures.

### **2.1.3 Export Administration Regime**

Russia encourages the exports of industrial manufactured goods. According to the 2006 *Regulation on Export Credit Guarantee for Industrial Products*, exporters of industrial products (goods, labor and services), Russian lending banks, and foreign lending banks (providing loans with a term of more than 8 years) are entitled to a guarantee from Russia so as to promote its exports. Exports produced in Russia and on the list of guarantee for domestic manufactured goods are entitled to a certain amount of guarantee from the Russian Ministry of Finance.

Russia restricts the exports of certain raw materials and resource-based products. Export restrictions include export prohibitions, export quotas, export licensing and export duties. Export prohibitions are placed on sturgeon and its caviar; export licensing applies to certain fishery products, oilseeds, fertilizers, and logs; high export duties are imposed on petroleum and products thereof, certain agricultural products, and logs. Export quotas in Russia are allocated through tender and auction.

In order to ease the impact of the global financial crisis on its exports, Russia eliminated in 2009 export restrictions on some products to promote the growth of exports. In January, 2009, the Russian government decided to abolish export customs duties on nickels and cathode coppers; in February, 2009, export tariff duties on specified chemical fertilizers were terminated, including fertilizers containing mineral or chemical nitrogen, and fertilizers containing two or three of the fertilizing elements nitrogen, phosphorus and potassium.

### **2.1.4 Trade Remedy Regime**

According to *the Federal Law on Special Safeguard, Anti-dumping and Countervailing Measures Against Imports* of 2003, the Ministry of Economic Development and Trade of the Russian Federation is in charge of implementing trade remedy measures. In 2008, Russia adjusted its government bodies and functions. The Russian Ministry of Industry and Trade is responsible for processing applications for anti-dumping, countervailing and safeguard measures, conducting investigations and providing recommendations. The Trade Defense and Tariff Policy Commission of the Russian federal government makes the final decision based on the investigation results and recommendations submitted by the Ministry of Economic Development and Trade.

In October, 2007, according to *the Federal Law on Special Safeguard, Anti-dumping and Countervailing Measures Against Imports* of 2003, Russia enacted the administrative regulation on the procedures of initiating trade remedy investigations by the investigation body, including the deadline of processing applications for investigations, the time limit of investigations, the responsibilities of investigators, and information disclosure.

### **2.1.5 Trade Administrative Bodies and Their Adjustments**

In 2009, Russia made no major adjustments on its trade administrative bodies, which include the Ministry of Economic Development, the Ministry of Industry and Trade, the Ministry of Finance, the Tariff Policy Commission, the Ministry of Agriculture, the Ministry of Energy, the Ministry of Health and Social Development, the Federal Customs Service of Russia, and on the Foreign Investment Advisory Council of the Russia Federation.

The Federal Customs Service (FCS), with a Central Customs Directorate and several Regional Customs Directorates as its subordinate bodies, is put under the direct control of the Russian federal government. Its major responsibilities are supervising the customs procedure of import and export, regulating foreign exchange and cracking down on illegal activities such as smuggling.

The Foreign Investment Advisory Council (FIAC) of the Russia Federation is subordinated to the federal government of Russia and led directly by the Vice Prime Minister, with members coming from large-scale foreign invested enterprises, the European Bank of Reconstruction and Development (EBRD), the World Bank, and the related Russian government bodies such as the Ministry of Economic Development and Trade, the Ministry of Finance, the Central Bank, and the Ministry of Taxation. The regular meetings convened and motions submitted by the FIAC have become an important basis for the Russian government to formulate and adjust its relevant economic policies.

The Federal Service for Veterinary and Phytosanitary Supervision (Rosselkhoznadzor), attached to the Russian Ministry of Agriculture, is mainly responsible for implementing and overseeing sanitary and phytosanitary (SPS) measures and issuing veterinary, quarantine, phytosanitary, and other licenses and certifications.

The Department for the Protection of Consumer Rights and Human Well-Being, affiliated to the Russian Ministry of Health and Social Development, is mainly responsible for protecting the rights and interests of consumers and the consumer market, registering and licensing chemicals and biological products, and the Department for the Supervision over the Use of Natural Resources, another subordinate body to the Russian Ministry of Health and Social Development, is mainly in charge of licensing the import and export of wild fauna and flora. The Office of Technical Control and Measurement of the Russian Federation takes responsibility to accredit certification institutes, to implement national mandatory inspection, and to harmonize technical specifications and standards.

### **2.2 Investment Administration Regime and Its Recent Developments**

Investment-related laws in Russia include mainly *the Law on Foreign Investment, the Law on the Procedures of Restricting Foreign Investment, the Federal Law on Mineral Resources, the Labor Law, the Law on Production Sharing Agreements, the Land Code, the Law on Farm Land Circulation, the Law on Limited Liability Company, the Law on Joint Stock Corporation, the Law on Advertising, the Law for the Protection of Rights and Interests of Judicial Persons and Self-employers in the Implementation of State Surveillance, the Law on Currency Regulation and Foreign Exchange Control, the Law on State Registration of Judicial Persons, the Law on State Registration of Real Estate Property Rights and Transactions, and the Law on Special Economic Zones.*

The *Law on Foreign Investment* states that foreign investors should not be treated less advantageously than domestic investors, except otherwise provided in the laws of the Russia Federation. In addition, according to Paragraph 2, Article 9 of the *Law on Foreign Investment*, foreign investors and foreign businesses participating in priority investment projects are accorded special preferential treatments and legal protections, which guarantee the stability of the investment conditions and shall not be affected by the changes in Russian laws and regulations within a certain period of time.

According to the *Law on the Procedures of Restricting Foreign Investment*, which took effect in 2008, Russia restricts foreign investment in certain strategic industries, including specialized production technology, weaponry and military production technology, aviation, space activity, and nuclear energy. Restrictions on foreign investment cover 42 sectors such as specialized technology, weaponry and military technology, aircraft manufacturing, astronautics, monopolistic use of nuclear energy, exploitation of subsoil resources, the research, manufacturing and selling of specialty metals and alloys for weaponry and military technology, and printing. Foreign investors who intend to invest in the above-mentioned strategic industries shall apply to a special

commission set up for this purpose by the Russian federal government. In addition, foreign investors shall make commitments that when it involves Russian state secrets, qualified Russian citizens should be appointed as the company manager or members of the board of directors.

In accordance with the revised *Law on Mineral Resources*, onshore oil fields with reserves of more than 70 million tons, natural gas fields with reserves of more than 50 billion cubic meters, gold mines with reserves of over 50 tons, and copper ores with reserves of over 500 thousand tons should be designated as federal mining area. In case of any federal mineral areas discovered in the course of geological research, the Russian federal government may still deny foreign investors the right to explore and tap these mineral areas, even if foreign investors or foreign invested Russian corporations hold a comprehensive permit of geological research, exploration and exploitation. Only corporations legally established in compliance with the Russian laws are entitled to engage in the tender and auction of the mining title of specific federal mineral resources. The Russian government reserves the right to impose other restrictions on the involvement in such tender and auction by Russian corporations with foreign equity participation.

### **2.3. Trade and Investment-related Administration and Its Recent Developments**

#### **2.3.1. Tax Administration**

The *Tax Code* is the main legal basis for tax administration in the Russian Federation.

In order to import advanced technological equipment from foreign countries, Russia exempts value-added tax (VAT) on imports of certain mechanical equipment and its parts. On July 1, 2007, the new list of imported mechanical equipment and its parts enjoying VAT exemptions took effect. The new product list replaced the earlier list stipulated according to Article 150 of the *Tax Code*. Compared with the old one, the new product list excludes industrial air conditioning systems, refrigerators, cranes, electric loaders, electric transmission equipment, and transporters. Moreover, the new product list has more detailed descriptions of the products with 10-digit HS code numbers.

In November, 2009, Russia promulgated a directive drastically increasing the excise tax on alcoholic beverages. In accordance with the directive, in 2010, high alcoholic drinks with alcoholic percentage over 8.6% will be subject to excise tax at 14 rubles per bottle, almost up by 50% from the original 9.8 rubles per bottle, and low alcoholic drinks with alcoholic percentage from 0.5% to 8.6% will be subject to excise tax of 10 rubles per bottle, three times as high as before.

In response to the international financial crisis, Russia lowered the corporate profit tax in 2009. On November 21, 2008, the Russia State Duma adopted at the second reading the amendments to the *Tax Code*, which lowered the corporate profit tax rate by 4 percentage point from 24% to 20%.

#### **2.3.2 Labor Administration**

According to Government Decree No. 681 of November, 2006, the Russian government started to

implement the new *Administrative Regulation on Granting Interim Work Permits to Foreign Citizens* effective from January 2007. The Regulation not only defines the licensing procedures for foreign workers who could not be introduced into Russia without a visa, but also stipulates the licensing procedures for foreign workers from CIS countries (exclusive of Georgia and Turkmenistan) who could apply for work permits without a visa. As a result, the administration of all foreign workers to Russia is codified in a unified system. Pursuant to this Regulation, the Russian government will decide the quotas of foreign workers every year based on the number of foreign workers in the preceding year and the demand of the applications from Russian enterprises.

### **2.3.3 Administration of Forest Resources**

Federal Law No. 217, which came into force on July 11, 2007, amended the *Russian Federal Forest Law*. The amendment delegates the power of forest administration to local governments, requiring the users of forest resources to shoulder the responsibility of forest cultivation and conservation and providing favorable policies to both Russian and foreign enterprises in order to encourage wood processing and further processing in the Russian territory. In October, 2007, Russia adopted the *Regulation on Formulation and Ratification of the List of Priority Investment Projects in Forest Development Industry*. The Regulation specifies the priority projects to be invested in and the cost factors on which the Russian federal government can exert influence, thereby increasing the feasibility of preferential policies in forestry.

In order to boost the development of domestic wood processing industry, Russia adopted a series of adjustment policies, including the reduction in export tariff on processed saw-timber and wood products, the abolition of import tariff on wood processing equipment, and the provision of more preferential policy for investment of over 300 million rubles in wood processing.

### **2.3.4 Foreign Exchange Control**

Russia has eliminated the practice of collecting foreign payments for imports and exports; the restrictions on residents opening bank accounts abroad; the limits on the remittance to a bank account outside Russia; the requirement that foreign investors deposit certain amount of transaction funds in a special account. In addition, Russia has relaxed the control over the transactions of Russian banks in foreign exchange, and the Russian currency ruble has been made fully convertible under the capital account.

According to the 2008 revised implementation procedures of foreign exchange intervention, the Russian Central Bank will conduct regular foreign exchange interventions, in light of foreign exchange market quotes, its balance of payments and the implementation of the federal fiscal policy, so as to keep a flexible foreign exchange policy, to limit the fluctuations of exchange rates, to reduce the stimulation of foreign exchange speculation, and to pave the way for the transition from the current managed floating exchange rate regime to freely floating exchange rate mechanism.

## **3 Barriers to Trade**



### 3.1 Tariff and Tariff Administrative Measures

#### 3.1.1 Tariff Peaks

At present, the Russian weighted average customs tariff rate is approximately 12.9%, the weighted average tariff rate being about 25% for agricultural products and around 10.4% for non-agricultural goods. However, it is noteworthy that goods subject to import customs duties exceeding 25% cover more than 30% of the country's imported goods, and involve agricultural products (such as aquatic products, animal products, certain vegetables and fruits, and tea) and industrial goods (such as textiles and apparel, machinery and equipment, electrical appliances, and electronic products). Specifically, the tariff rate can be up to 100% on textiles and clothing, 172% on mechanical appliances, 48% on electronic products, 123% on animal products, 68% on certain vegetables and fruits, 66% on tea, and 155% on aquatic products. Russia's tariff peaks have constituted barriers for Chinese leading exports such as textiles, fabrics, clothing, electrical appliances, and electronic products on which China has a competitive advantage over Russia.

#### 3.1.2 Tariff Escalations

To foster the growth of its domestic manufacturing industry, Russia has reduced import tariffs on certain raw materials and intermediate inputs, and at the same time, raised import duties on relevant finished products. For example, to promote the development of domestic leather manufacturing sector, Russia imposes 0%-5% import customs duties on certain leather materials, while imposing customs duties as high as 20% on finished leather goods, with the import tariff on certain finished leather goods running up to 64%. The above-mentioned tariff escalation has increased the actual level of protection in Russia on its domestic leather manufacturing industry and had a major adverse effect on the export of China's relevant products.

#### 3.1.3 Tariff Quotas

Since 2003, the Russian government has applied import quotas on meat and imposed high tariff on meat imports exceeding quotas. In the negotiations about its accession to the WTO, Russia can retain its quotas on imports of meats until 2009, but it has to increase those quotas year by year.

According to quota quantities of meat approved by the Russian Ministry of Economic Development and Trade, in 2009, the import quota for pork is 0.5319 million tons, up by 0.0297 million tons compared with 2008, among which the quota allocated to the US increased from 0.0403 million tons to 0.1 million tons, an increase of more than two-fold, the quota to the EU and Paraguay was the same as the previous year, and the quota to other countries decreased from 0.1971 million tons to 0.1775 million tons. The import quota for poultry meat is 0.952 million tons, down by 0.3 million tons from the preceding year, among which the quota distributed to the US reduced from 0.931 million tons to 0.75 million tons, the quota to the EU reduced from 0.2444 million tons to 0.185 million tons, the quota to Paraguay reduced from 5 thousand tons to 3.8 thousand tons, and the quota to other countries reduced from 0.0711 million tons to 0.0124 million tons.

In 2009, Russia adjusted its over-quota customs duties on the imports of pork and poultry meat, among which the off-quota import duties on poultry meat increased from 60% to 95% or 0.8 euro per kilogram, whichever is higher; the off-quota import duties on pork increased from 60% to 75% or 1.5 euro per kilogram, whichever is higher.

China notes that most of Russia's import quotas of poultry meat, pork and beef go to such countries and region as the US, the EU and Thailand, while very little is distributed to China. China regards such a practice on the part of Russia as an obvious discrimination and restriction, which has caused Chinese fresh meat manufacturers huge losses by obstructing them from entering the Russian market. China hopes that Russia will lower its off-quota customs duties and gradually eliminate import quota restrictions on pork and poultry meat.

### **3.1.4 Temporary Rise in Tariff**

In order to protect the interests of its domestic enterprises, Russia raised temporarily import customs duties on certain products in 2009. Since December 1, 2008, Russia imposed a temporary customs duty as high as 30% on the imports of tractors, trucks and brand cars, among which the import duty on vehicles with an engine displacement between 1.5L to 1.8L is 30% or 1.5 euro per liter, whichever is higher, and the import duty on vehicles with an engine displacement between 1.8L to 2.3L is 54% or 2.15 euro per liter, whichever is higher, effective for 9 months. In October, 2009, the Russian Prime Minister signed a government directive deciding to extend the validity of the above-mentioned measures to another 9 months.

According to the Russian government directive of January 9, 2009, the import customs duty on combine harvesters (Russian customs code numbers 8433510001, 8433510009, 8433591101 and 8433591109) is temporarily raised from 5% to 15% or 120 euro per kilowatt, whichever is higher. The measure is valid for 9 months.

On January 15, 2009, Russia announced that import customs duties would be increased on certain rolled steel products and steel pipe products with a validity period of 9 months. To be specific, import duties are raised from 5% to 15% on building wires and industrial pipes for petroleum and natural gas sectors, and from 15% to 20% on certain steel pipes.

In February, 2009, the Russian Prime Minister signed a decree raising the import customs duties to 50% on liquid crystal displays (LCD) and plasma screen displays.

On February 26, 2009, the Russian government promulgated Government Decree No. 173 deciding to raise import customs duties on certain dairy products for children. According to the Decree, the customs code numbers of certain dairy products have been reset, and import duties on certain dairy products for children have drastically increased from 5% to 15% or 0.18 euro per kilogram, whichever is higher. This measure has been in force since May 4, 2009. Starting from September 25, 2009, Russia raised its import customs duty on cheese to 15% or 0.5 euro per kilogram, whichever is higher.

On April 3, 2009, Russia released Government Decree No. 299 deciding to temporarily raise the import customs duty from 5% to 15% on other hot rolled coils with a circular cross-section of diameter less than 14 mm (Russian customs code numbers 7213914900, 7213919000 and 7213999000). This Decree took effect on the day of its promulgation, valid for 9 months.

Since June 1, 2009, the Russian federal government decided to increase import customs duties to 20% on certain vegetables including broccolis, potatoes, tomatoes and cucumbers, effective until October 1, 2009.

In order to protect the interests of domestic grain producers, Russia raised in July, 2009 import customs duties on rice, flour and cereal products by 71%, up from 0.07 euro per kilogram to 0.12 euro per kilogram.

On September 15, 2009, the Russian federal government signed a decree deciding to levy a temporary import customs duty of 5% for 9 months (from October 15, 2009 to July 15, 2010) on certain equipment, including marine generators, auxiliary equipment for steam generator, mechanical boilers, bridge cranes, and machinery for forest industry (including four-wheel hydraulic crawler chassis).

Moreover, in order to protect the interests of domestic footwear producers, Russia is planning to drastically raise import customs duty on footwear by possibly at least 60% in 2010.

The practice on the part of Russia to increase temporarily customs tariff duties points to a lack of stability, which has a very adverse impact on the import of the relevant products. China urges Russia to eliminate temporary tariff measures as soon as possible so as to promote healthy development of trade between the two countries.

### **3.2 Import Restrictions**

According to Federal Resolution No. 363 of June 9, 2005 on *the Approval of the Regulations on the Supervision of the Import and Export of Certain Categories of Commodities*, Federal Resolution No. 364 of June 9, 2005 on *the Approval of the Regulations on Granting Licenses in the Field of Foreign Commodity Transactions and on Establishing the Federal Data Bank for Licenses*, Ministry of Economic Development and Trade Directive No. 245 of September 29, 2005 on *the Implementing Measures of Resolution No. 363 on “the Approval of the Regulations on the Supervision of the Import and Export of Certain Categories of Commodities”*, and Ministry of Economic Development and Trade Directive No. 251 of October 6, 2005 on *the Implementing Measures of Resolution No. 364 on the “Approval of the Regulations on Granting Licenses in the Field of Foreign Commodity Transactions and on Establishing the Federal Data Bank for Licenses”*, many products are subject to import licensing, including radioactive substances and products thereof, explosives and articles of fireworks, psychedelic drugs, *anesthetics*, pharmaceuticals, information protection equipment, and potent liquors. Russia has streamlined the import licensing procedures of products such as spirits and removed the discriminatory processing charges against some imports. However, the current procedures of applying for licenses in Russia

are still complicated and tedious, thus affecting adversely the import of the relevant products.

In 2009, Russia placed quantitative restrictions on the imports of automobile parts by automotive assembly plants. Russia demands that enterprises which have signed agreements with the Ministry of Economic Development and Trade before November 10, 2007 switch their refit featured production to whole line of production including welding, spray painting and body assembly within one year and half to two years. During this period, these enterprises can import auto parts according to the product list in the agreement and the approved business plan, but specific restrictions are placed on the quantity of auto parts imported at preferential tariff rates, with the quantity of parts for no more than 20 thousand cars and for no more than 5 thousand tractors and trucks. This measure has restricted foreign companies in SKD (semi knocked down) assembly in Russia and has a substantial negative effect on Chinese manufacturers of automobiles and auto parts. Besides, it is also unfavorable for the development of Russian domestic businesses engaged in auto parts assembly. China hopes that Russia will abolish as soon as possible this restrictive measure on the imports of auto parts so as to promote bilateral trade and economic development.

In September 2004, the Russian government announced its decision to prohibit the imports of meat products from China under the pretext of uncertainty of an epizootic in China. On July 29, 2006, Russia banned the imports of cooked and processed meat products originating in China on the grounds of outbreaks in China of foot-and-mouth disease (FMD), avian influenza (bird flu) and other epidemics and the illegal circulation in Russia of such meat products from China. Although the General Administration of Quality Supervision, Inspection and Quarantine of China (AQSIQ) reached a consensus in November 2006 with its Russian counterpart on resuming the exports of Chinese meat products to Russia, the Russian side has not yet taken any concrete actions. Up to now, China's export of meat products to Russia is virtually at a standstill. China hopes that the Russian veterinarian authority will come to China soon to have a field inspection of Chinese meat manufacturing enterprises and restore the import of meat products from China as early as possible.

On December 4, 2006, the Russian Federal Service for Veterinary and Phytosanitary Supervision (Rosselkhoz nadzor) decided to have an all-out ban on the import of rice for the reason that hazardous substances had been found in imported rice. On May 21, 2007, Russia resumed the import of rice from Vladivostok Port; however, China's export of rice to Russia is mainly via land ports and border trade, thus leading to the long-time stoppage in China's export of rice to Russia. Following many rounds of consultations between the two countries, after 2009 Russia allowed the import of Chinese rice from Sabaikalsk railway frontier port and Khabarovsk Port. However, because China has only one land port of Manzhouli with Russia and because Russia adopts rigid procedures for approving import license and inspection, it is still difficult for Chinese businesses to export rice to Russia. China hopes that Russia adds some new frontier ports such as Heihe to Blagoveshchensk to import rice from China and eliminates its quantitative restrictions on the import of rice.

### **3.3 Barriers to Customs Clearance**

Russia enacted a new *Customs Code* in 2004. The new Code has simplified the procedures of customs declaration and collection, and amended its customs valuation practices in line with the provisions of the *WTO Agreement on Customs Valuation*. However, significant barriers to customs clearance still remain in Russia.

In order to combat under-declaration of customs value, the Russian customs authorities conduct internal assessment on imports, generally without releasing a public announcement or issuing a notification to its trading partners. The internal import valuations are directly applied as reference prices for customs valuation or substituted for the invoice value of the imports. On June 10, 2006, Russia promulgated the *Notice on Strengthening Controls over Customs Values of the Commodities Listed under Chapters 42 and 43 of the Russian Federal Catalogue for Foreign Economic Activities*. According to the provisions of the above document, the Russian customs shall exercise controls over the customs values of imported products of Chinese origin under Chapters 42 and 43 of the HS Code, and shall charge specific duties ranging from US\$ 5 to US\$ 90 per kilogram on such imports from China. In 2007, all the Russian customs posts accepting declaration of Chinese products received a notification to the effect that customs valuation of Chinese goods should be raised from US\$ 0.2-0.4 per kilogram to no less than US\$ 3.5 per kilogram. The above-mentioned discriminatory measures targeting imports from China were adopted without the publication of an official document and without prior notification to the Chinese side. These measures have caused considerable negative effects on Chinese exports. China hopes that the Russian customs authorities will implement customs valuation and supervision strictly on the basis of the *WTO Agreement on Customs Valuation*.

Russian customs practices vary by region and port of entry: great differences as to import clearance, customs supervision and customs valuation exist between different regions and ports; the relevant administrative regulations are subject to frequent and unpredictable changes; and a reasonable length of transitional period is usually not granted. As a result, imports are prone to be delayed in ports and the relevant enterprises have to bear unjustified charges and costs. Moreover, in order to fight against the so-called “gray customs clearance”, Russia has adopted special measures on customs clearance of imports of Chinese origin, which include reducing the number of customs posts handling entry formalities of imports from China, centralizing the administration of imports from China, charging an additional 30% tariff on imports from China, and imposing a uniform duty of US\$ 3.5 per kilogram on all imports from China.

Generally, Russian customs do not make publicly available those management rules, implementing regulations and administrative decisions adopted in accordance with the *Customs Code*. Furthermore, the *Customs Code* does not provide relevant stipulations on remedies in judicial review and neither importers nor exporters could lodge complaints against the decisions made by the Russian customs, which allows the Russian customs officials too greater a discretion.

In 2009, the Russian customs enforced new rules on customs classification and export formalities of logs, which led to a more complicated customs procedure for log export. Starting from January 1, 2009, the customs code numbers in the commodity catalogue are changed from 10-digit to

14-digit level and products are further classified into 3315 categories, up from the original 27 categories, which adds to the difficulties in log classification. These rules have increased technical difficulties on the export of logs, prolonged the time for going through export formalities and increased the costs of export, because of the need to rebuild the field for classifying and handling logs and to set up different production lines. Meanwhile, in order to restrict the export of logs, Russia passed in September, 2009 a decision reducing the number of log exporting border ports from 421 to 121.

### **3.4 Discriminatory Taxes and Charges Levied on Imports**

In addition to customs duties, an 18% value-added tax (VAT) is imposed on imports, and excise taxes on certain imports such as alcohol, alcoholic beverages, tobacco and articles thereof, jewelry, gasoline, and automobiles. However, excise taxes on imported automobiles and motorcycles are much higher than those on Russian domestic products of the same category. According to the *Tax Code of the Russian Federation* of 2000, a uniform excise tax of 5% is levied on domestically made cars, while specific excise taxes are imposed on imported cars at different rates based on their engine displacements and the excise tax on imported motorcycles is as high as 20%. The application of different excise tax rates to imported and home products constitutes an obvious discrimination against imported products.

### **3.5 Technical Barriers to Trade**

According to the *Law on Products and Certification Services*, Russia subjects certain products to mandatory certification. Products such as food, household electrical appliances, electronics, cosmetics, furniture, toys, ceramics and porcelain, be they domestically produced or imported, cannot be placed on the market unless they obtain the Russian compulsory certificate (GOST). However, Russia's mandatory certification standards are quite complex, about 70% of which deviate from the relevant international standards, and some of the Russian safety standards are even higher than those of developed countries. At the same time, Russia does not recognize product certification based on the relevant international standards and as a result, many products have to undergo redundant certification, which adds to the costs and burdens of exporters.

Russia's administration of technical standards and certification is rather complicated. Although the Office of Technical Control and Measurement of the Russian Federation and its accredited organizations are the leading bodies responsible for administering technical standards and certification, other government bodies such as the Ministry of Agriculture (for agricultural products), the Ministry of Health (for medical equipment and pharmaceuticals), the State Commission of Telecommunications (for telecommunications equipment and services), and the State Commission of Mining Inspection and Surveillance (for mining equipment, petroleum and natural gas equipment) also participate in the administration of technical standards and certification. Therefore, certain products need to meet the standards of several government agencies. For instance, the certification of telecommunications equipment shall satisfy the standards of the State Commission on Standardization and the Ministry of Telecommunications, and it takes 12 to 18 months for the enterprises to complete the whole certification procedures. Imported pharmaceuticals and alcohols are subject to redundant certification, which brings about

unreasonable burdens on enterprises and hinders normal import of the relevant products.

### 3.5.1 Automotive Standards and Certification

In July, 2009, the Russian Ministry of Industry and Energy published the revised technical specifications of *Performance Requirements on Toxic Substance Emissions of Russian Built Vehicles*, planning to implement the EU IV emission standards in Russia since January 1, 2010. Before the full implementation of the EU IV standards, a transitional period of 2 years is provided, namely, from 2010 to 2011 the production of vehicles with approval granted before December 31, 2009 will be allowed, as long as they meet the EU III standards. On the other hand, vehicle models (including brand-new and second-hand vehicles) imported into Russia for the first time and vehicle models produced in Russia without such an approval will be subject to EU IV standard as from January 1, 2010. China believes that the transitional period afforded Russian built vehicles should also be afforded imported vehicles; otherwise, Russia's practice would constitute a discrimination against imported vehicles.

At present, Russia still refuses to accept the Chinese standards and certification system. Vehicles made in China need to get domestic certification before export, and re-certification is needed in Russia before exporting there, which brings great inconvenience to enterprises. Actually, only the change in engine tests and certification is needed with the change in emission standards, so it is rather unreasonable for Russia to demand re-certification of all the auto-parts when only the change of emission standards is involved in imported vehicles, which considerably increases the costs of enterprises in certification and inspection.

China also notes that Russia frequently changes its certification standards and constantly increases the inspection items, which has caused a lot of trouble to the relevant enterprises. Chinese enterprises report that the inspection items for the whole vehicle have gradually increased from 18 items in 2007 to 55 items in 2008, and all the inspection items need to be certified by officially designated institutions before export to Russia. It takes a long time and a lot of money to complete the certification process, but the validity period for the certification is too short. Usually, it takes 6 months to get certification for chassis and 3 months for bodywork, the whole process of the two parts amounts to as long as 9 months. However, the certification is valid for just 6 months, resulting in a recertification of each and every transaction. During the process of applying for certification, vehicle enterprises are unable to arrange production, and what's more, vehicles that have been produced will have to be held in stock, which considerably increases the production costs of the manufacturers.

In accordance with the relevant Russian requirements, foreign vehicle manufacturers and exporters are not qualified to apply for Russia's automotive certification directly; certification should be applied first by importers in Russia, and officially appointed Russian experts will be sent to vehicle manufacturers to carry out various inspections and tests. The cost of the Chinese enterprises to get a Russian automotive certification has increased to €500,000 from €100,000, because they have to bear not only the testing fees but also the travelling expenses. China hopes that Russia will change its present practice and grant foreign enterprises the qualifications to apply

directly for Russia's automotive certification.

In addition, Russian enforcement of standards differs greatly from region to region and product certificates recognized in some regions are not accepted in others, with the result that products entering different regional markets are subject to different regional standards.

The Chinese side is very concerned that the Russian automotive standards and certification procedures have exerted a tremendously negative impact on Chinese exporters.

### **3.5.2 Special Inspection against Trucks Imported from China**

In accordance with the requirements of the Russian customs, a particular institution was set up in the Russian Automotive Quality Certification Center in 2008 to exclusively inspect trucks imported from China. The institution is authorized to inspect not only Chinese trucks in customs clearance in general trade and border trade, but also Chinese trucks already placed on the market in Russia. Once non-conformity with the Russian standards is found, both importers and dealers will be liable to a heavy fine and placed on a blacklist, and certification institutions will refuse to accept their applications for certification the next time.

The Chinese side believes that the above-said measure of Russia is discriminatory and unfairly targets Chinese products, which has had a negative impact on Chinese automotive exports.

## **3.6 Sanitary and Phytosanitary Measures**

### **3.6.1 Inspection of Meat Products**

Currently, Russia still requires site inspections by Russian veterinarian officials on all the Chinese exporters of livestock products to Russia without exception. Chinese exports of meat products to Russia are subject to redundant inspections; veterinary health certificates issued by the Chinese side can only be accepted after being endorsed by the Russian inspection and quarantine agency. In complete disregard of the agreement reached between China and Russia that only veterinary health certificates of pork and beef need to be endorsed by the Russian inspection and quarantine agency, Russia applied the endorsing requirement to other livestock meat, poultry meat and casing, which has incurred unreasonable burdens on Chinese meat manufacturing and exporting enterprises.

### **3.6.2 Health and Safety Requirements on Fruits and Vegetables**

Russia applies harsh health and safety standards to imported fruits and vegetables. For example, the maximum resident limit (MRL) in vegetables is 0.5 mg/kg for lead, 0.03 mg/kg for cadmium, 0.2 mg/kg for arsenic, and 0.02 mg/kg for mercury. Besides, Russia has established strict stipulations on the residues of agricultural chemicals and radioactive elements in fruits and vegetables.

### **3.6.3 Inspection of Aquatic Products**

According to the relevant requirements in Russia, only after obtaining a license from the official



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Veterinary Services of exporting countries and under the long-term supervision of the official Veterinary Services can enterprises export live fish, chilled and frozen fish, seafood and finished seafood products through thermal processing. The official Veterinary Services of exporting countries should adopt currently prevailing methods to inspect and quarantine worms, helminthes, bacterial and viral infections. Russia also stipulates that artificially bred fish and seafood products cannot be fed with feed produced with processing materials of genetic engineering or other genetic transmutative materials; an import ban is placed on frozen fish and seafood with center temperature higher than  $-18^{\circ}\text{C}$ , and aquatic products inoculated with salmonella and other pathogenic bacterial infections, or subject to the treatments of coloring substances, odoriferous spices, ionizing radiation and ultraviolet (UV) radiation, or infected with pathological disease lesion.

In addition, Russia requires that microbial, toxicological and radiation indicators for fishery products should comply with the current Russian veterinary health rules and standards. Aquatic products without the treatment of thermal processing and destined for the Russian market can be shipped only when the importers have been granted a license by the Federal Service for Veterinary and Phytosanitary Supervision (Rosselkhozadzor). The Russian Federal Veterinary and Phytosanitary Service reserves the right to send its veterinarian experts to inspect the breeding base and to assess the supply capacity of the enterprises exporting fish and seafood to Russia.

### 3.7 Trade Remedy Measures

After launching an anti-dumping investigation against coated metal plates and safeguard investigations against stainless steel tableware and harvesters originating in China in 2008, Russia again initiated an anti-dumping investigation against nickel-containing stainless steel and a safeguard investigation against fasteners of Chinese origin in 2009. By the end of 2009, Russia had taken 16 trade remedies against China, including 3 anti-dumping and 13 safeguard measures.

Table 1: New Initiations of Anti-dumping Investigations against China in 2009

No.	Time of Initiation	Products Implicated	Customs Code No.	Progress
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1	March 27, 2009	Nickel-containing stainless steel	7219110000, 7219211009, 7219221009, 7219230009, 7219240009, 7219310000, 7219321009, 7219331009, 7219341009, 7219351000, 7219902000, 7219908009, 7220110009, 7220120000, 7220202100, 7220204100, 7220208100, 7220902000, 7220908000 (customs code version of January, 2007)	Under investigation
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Table 2: New Initiations of Safeguard Investigations against China in 2009

No.	Time of Initiation	Products Implicated	Customs Code No.	Progress
1	May 21, 2009	Fasteners	7318158100, 7318158900, 7318159009, 7318169109, 7318169900, 7318210009 (tariff schedule of January 1, 2007) and 7318158100, 7318158900, 7318159000, 7318169100, 7318169900, 7318210000	Under investigation

On December 10, 2007, Russian launched a safeguard investigation against Chinese stainless steel tubes no thicker than 426 mm, and in 2009, Russia made the definitive ruling, levying an additional 28.1% safeguard duty on the implicated imports of 20 ten-digit lines under the Customs Code numbers 730411, 730441, 730449, 730611, and 730640.

On March 8, 2008, Russia started anti-dumping investigations against coated cold rolled metal plates and galvanized coated cold rolled plates, regardless of diameter and thickness, of Chinese, Korean, Belgian, Finnish and Kazakhstan origin. On October 16, 2009, the Russian Ministry of Industry and Trade circulated an official notification stating that the anti-dumping investigation against coated cold rolled steel sheets is to be terminated, because no injury to the domestic industry has been found.

### 3.8 Export Restrictions

While generally encouraging export, Russia places restrictions on the export of certain strategic and resource-based products such as non-ferrous metals, timbers, oils and minerals. In compliance with Federal Resolution No. 363 of June 9, 2005 on the *Approval of the Regulations on Imposing*

*Supervision on the Import and Export of Certain Categories of Commodities*, and Federal Resolution No. 364 of June 9, 2005 on the *Approval of the Regulations on Granting Licenses in the Field of Foreign Commodity Exchange and on Establishing the Federal Data Bank for Licenses*, 16 categories of strategic and resource-based products are subject to licensing restrictions. Moreover, Russia imposes export customs duties on several hundreds of products to restrict their export, including *hydrocarbon* raw materials, unprocessed wood, precious stones and valuable accessories, certain metals and chemicals.

Although eliminating export duties on fertilizers and certain non-ferrous metals, Russia raised export duties on crude oil many times in 2009.

After it raised export customs duties on logs and unprocessed sawn wood in May, 2006, Russia continued in July 2007 to increase the export duty on logs to 20% or 10 euro per cubic meter (whichever is higher) from 6.5% or 4 euro per cubic meter (whichever is higher). In April, 2008, the export duty on logs was further raised to 25% or 15 euro per cubic meter, whichever is higher. Due to the impact of the global financial crisis, Russia decided to postpone its 2009 plan to raise the export duty on logs. However, the export duty on logs is expected to be raised in 2010 to 80% or 50 euro per cubic meter, whichever is higher. The constant increase in the export duty on logs has led to rising costs for Chinese wood processing enterprises and affected their normal production and operation.

### **3.9 Subsidies**

Russia continues to subsidize its agricultural sector. In order to support the development of its agriculture, the Russian government requires that fertilizer enterprises in Russia should first grant preferential treatment to domestic purchasers, the preferential price being 26% to 30% off the export price in 2009 and 5% to 10% off the export price in 2012. Meanwhile, the Russian government provides public subsidies to its agribusinesses amounting to 8 billion rubles per year. In 2009, the Russian government announced a new policy to support its automobile industry. According to the new policy, loan subsidies will be offered to buyers of vehicles of Russian origin designated by the Ministry of Industry and Trade.

### **3.10 Barriers to Trade in Services**

#### **3.10.1 Telecommunications Services**

The *Law on Telecommunications* in Russia provides for the way that selective carrier networks are to be interconnected with the Russian public telephone network, thus placing interconnection contracts and fares under strict supervision of the Ministry of Communications of the Russian Federation. Although Russia relaxed government controls on telecommunications operators in 2007, near 20 types of licensing are still operative in telecommunications field. The lack of transparency in licensing process has caused great inconvenience to new telecommunications operators entering the Russian market. Meanwhile, the telecommunications license is still valid for 5 to 10 years. Inadequate transparency in granting licenses has produced an unfavorable effect on the investment of the relevant enterprises and the validity period of the license is too short to

ensure full cost recovery of the investment.

### **3.10.2 Construction Services**

In Russia, only natural persons with Russian nationality can be licensed to provide architectural services. Only by jointly providing services with Russian citizens or authorized Russian business firms can foreigners enter the Russian architectural services market. When more than 100 workers are employed at a construction site in Russia, more than 50% of them should be Russian citizens.

According to the *Russian Urban Construction Code (Amended)* issued in October 2008, from January 1, 2009, the Russian Government would no longer issue licenses for architectural design, construction and inspection, and regulatory functions of the construction industry will be taken over by self-regulatory organizations (SROs), which will examine and grant building licenses from 2010.

### **3.10.3 Transport Services**

Russia has not yet opened its market for passenger and freight railway transport to foreign investors. Meanwhile, no joint venture is allowed to engage in cargo handling, container yard operation, shipping agency, or customs clearance. No foreign business is permitted to provide maintenance services for railway transportation equipment. Moreover, certain non-national treatment restrictions are imposed on Chinese companies providing cross border road transport services.

At present, Russia grants both Russian and foreign investors in aviation-related research and manufacturing ventures certain investment incentives, including tax holiday and investment guarantee. However, foreign ownership is capped at 25% of the shares of an aviation enterprise, and board directors and senior management staff must be Russian citizens.

### **3.10.4 Financial Services**

Foreign banks are allowed to open subsidiaries, but not branches, in Russia. In addition, foreign participation in the total capital of the Russian banking system is subject to a 50% limit.

Foreign capital is given access to the Russian insurance market, but the total foreign capital involvement in the Russian insurance sector cannot exceed 49%.

### **3.10.5 Retail Services**

On November 15, 2006, Russia issued Government Decree No. 683 on the *Permitted Proportion of Foreign Workers Employed in Retail Business Entities within the Russian Territory*. According to the Decree, effective from January 1, 2007, foreign workers shall be prohibited from the retail business of alcoholic beverages (including beer) and pharmaceuticals in Russia, and the percentage of foreign workers employed by retail businesses except stalls, free markets or shops should be no more than 40% of the total staff. And starting from April 1, 2007, foreign workers shall be prohibited from providing retail services except in stalls, free markets or shops.

### **4 Barriers to Investment**

The *Law on Foreign Investment* of 1999 stipulates that the Russian federal government should set up a single registration authority for foreign investors so as to simplify the procedures of investment registration. At the same time, the Law also provides that foreign-funded enterprises shall enjoy the same national treatment as domestic enterprises in matters such as securities purchase, property transfer, judicial protection, and profit repatriation, but there still exist many unreasonable practices in the Russian administrative departments.

According to the 1999 *Law on Foreign Investment*, under the circumstances involving the protection of the constitutional system, public morals and health, the rights and lawful interests of other persons, and national defense and security, foreign investors will not be granted national treatment. These broadly-defined exceptions allow the Russian government considerable discretion in prohibiting and inhibiting foreign investment, which undermines the interests of the relevant foreign-invested enterprises. Besides, foreign investors are required to file registration for every new branch they set up within the territory of Russia, which adds to the costs in money and time for the expansion of foreign-invested enterprises.

According to the *Agreement on Encouraging and Mutually Protecting Investment between the Russian Federation and the People's Republic of China* signed in May, 2009, Russia would create favorable conditions for Chinese enterprises to invest in Russia, legally accept and completely protect Chinese investment, and consider providing preferential arrangements for granting visas and work permits to Chinese citizens who are engaged in investment activities in the Russian territory. Russia would also provide fair and equitable treatment to investment and related activities of Chinese investors and would not adopt any discriminative measures that may hinder investment to Russia. However, many restrictive measures remain on market access, land, labor import, taxation, and visa issuance, which have caused unnecessary barriers to Chinese enterprises to invest in Russia.

#### **4.1 Restrictions on Market Access**

As stipulated in the *Law on Foreign Investment Access to Strategic Sectors in the Russia Federation*, adopted in October, 2007, foreign investment is prohibited in 39 strategic industries, including the production of weapons, the production of nuclear materials, the construction of nuclear facilities, the construction of water conservancy facilities in ocean fishing ports, health and quarantine, and exploitation of strategic mines. Though Russia allows certain foreign involvement in industries such as electricity generation, white spirits, aeronautics and astronautics, it provides strict limits in matters such as foreign ownership and employment of foreign staff.

#### **4.2 Land**

Pursuant to the *Land Code* of 2001 in Russia, national treatment is granted to foreign investors in respect of purchases of land and its attached buildings, but purchases of farm land by foreign enterprises are restricted, and foreign enterprises are prohibited from purchasing any land close to Russia's border areas (locally known as *krays*) on grounds of ensuring national security.

### 4.3 Labor

Chinese invested enterprises in Russia engaged in agricultural development need a large amount of import of labor, but Russia subjects the employment of foreign staff to quota restrictions. The Russian government determines the quota for foreign employees every year, which is usually far less than the actual needs of enterprises. The quota set for 2008 is only 1.8 million of foreign workers, but by April 2008, the distributed quota has exceeded 50% of the total amount, and the quotas of Moscow, Kaluzhskaya Oblast, Ivanov Oblast, Primorsky Kray, Khabarovskiy Kray, Stavropolskiy Kray, Yakutia, Amurskaya Oblast, *Murmansk Oblast*, *Transbaikal*, and other regions have been fully utilized.

Although Russia raised its quotas of foreign workers to 3.9 million in 2009, 50% of the quotas are frozen in actual implementation, which had a great negative effect on Chinese invested enterprises in Russia. Chinese enterprises report that it takes a long time for labor quota applications to be processed. Enterprises usually formulate the employment plan of foreign staff in the second half of the previous year and then submit it to the competent authorities of the Russian government, but approval would come in the first half of next year, often obstructing normal business operations. In addition, the procedures for labor quota applications are many, costly and burdensome: for example, a visit to Moscow is necessary for each procedure and usually one labor quota will cost US\$ 1600-1800.

### 4.4 Taxation

According to the *Tax Code* of the Russian Federation, personal income tax rate is 13%, but Part II of the *Tax Code* provides that tax-payers not registered in the Russian Federation should be subject to a personal income tax of 30%. The application of different personal income tax rates to residents and non-residents are contrary to the national treatment principle, and the Chinese side is concerned about it.

Russia applies value added tax (VAT) to most goods and reimburses VAT to Russia-based exporters. However, the procedure for VAT refunds on exports is overly cumbersome, time-consuming and costly, and generally the reimbursement is not substantial enough to cover the associated costs.

### 4.5 Visa

Foreign work visa in Russia is usually valid for one year and multiple-entry is allowed. However, according to the relevant Russian stipulations since 2007, work visa is still valid for one year, but the visa can be used consecutively no longer than three months. After working for three months, workers holding valid visas in Russia must return to their home countries for at least 3 months before going back to work in Russia, still subject to for the limits of no more than 3 months consecutively. That is, for foreign workers holding valid visas in Russia, the actual cumulative time of working in Russia is only six months. As a result, Chinese invested enterprises in Russia have to appoint 2 staff members for one position, which considerably increases the operating costs.