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Russia's counter-sanctions against the USA: the draft federal law

On 16 April 2018, the Council of the State Duma approved for consideration the draft Federal Law 'On the Measures (Countermeasures) in Response to Unfriendly Actions of the USA and(or) other Foreign States' developed by a group of deputies (hereinafter - the 'Draft Law').

According to the explanatory note, the Draft Law is developed as a response to the challenges of the United States of America, its officials, expressed in their unfriendly and unconstructive actions to introduce 'sanctions' against both the Russian Federation as a whole, and their citizens and legal entities (this is mainly about Countering America's Adversaries Through Sanctions Act (CAATSA) dated 2 August 2017, that codifies the US sanctions against Russia, including sectoral ones, and the sanctions lists issued by the U.S. Department of the Treasury's Office of Foreign Assets Control that included a wide range of Russian legal entities and individuals).

The Draft Law provides for the right of the Government of the Russian Federation (subject to the decision of the President of the Russian Federation) to take certain measures "upon the occurrence of cases and(or) actions by the US and(or) other foreign states aimed at belittling the territorial integrity, security of the Russian Federation, as well as at economic destabilisation in Russia".

The measures provided for by the Draft Law may be against:

- the United States of America (US);
- other foreign states that have decided to join the actions of the United States and to impose economic sanctions against certain sectors of the Russian economy, Russian legal entities and(or) individuals, or have supported such decisions;
- organisations with participation, direct or indirect, including through third parties (dominant participation of more than 25%), of organisations that are under the jurisdiction of the US and(or) other foreign states (hereinafter - the 'controlled entities').

Such measures (sanctions) may be divided into the following categories:

1) prohibition or restriction on the import into Russia of certain products originating from the US and(or) other foreign states:

- agricultural products, raw materials and food products as to be listed by the Government of Russia;
- medicines or medicinal products as to be listed by the Government of Russia;
- alcohol and tobacco products;
- any other goods originating from the US and (or) other foreign countries as to be listed by the Government of Russia;

2) entry ban for the citizens of the US and(or) other foreign states to be listed by the Ministry of Foreign Affairs of Russia;

3) ban or suspension of engaging citizens of the US and/or other foreign states to work in Russia, including as high-qualified experts;

4) termination or suspension of international cooperation between Russia and Russian legal entities and the US and(or) other foreign states, including controlled entities, relating to the following sectors:

- atomic power;
- aircraft manufacturing;
- rocket engines;

5) prohibition or restriction on access to public procurement for technological equipment and software originating from the US and(or) other foreign states to be listed by the Government of Russia, for the purpose of procurement for the state and municipal needs and needs of certain categories of legal entities;

6) prohibition or restriction on the performance in Russia of certain works (services), including consulting, audit and legal services by entities under the jurisdiction of the US and(or) other foreign states, as well as by controlled entities, for state and municipal needs and needs of certain categories of legal entities;

7) prohibition or restriction on participation by citizens of the US and(or) other foreign states, as well entities under the jurisdiction of the US and(or) other foreign countries, and controlled entities in privatisation of the state or municipal property;

8) prohibition or restriction on participation in services related to the sale of federal property on behalf of Russia or acting as a seller of the federal property by entities under the jurisdiction of the US and(or) other foreign states, and controlled entities;

9) exhaustion of the exclusive rights to trademarks for the products listed by the Government of Russia, which are owned by citizens of the US and(or) other foreign countries, entities under the jurisdiction of the US and(or) other foreign states, and controlled entities;

10) increase of the fees for air navigation services for aircraft of the US and(or) other foreign states for the transportation of goods while using Russian airspace;

11) prohibition or restriction on the export from the Russian Federation of goods made from rare earth metals by citizens of the US and(or) other foreign states, and(or) entities under the jurisdiction of the US and(or) other foreign states, and controlled entities.

The following exemptions are specified with regard to the prohibitions and restrictions on the import of certain goods into Russia (p. 1 above):

- 1) prohibitions and restrictions do not apply to the import of goods by citizens of the Russian Federation, foreign citizens and stateless persons for personal use;
- 2) prohibition or restriction with regard of medicines or medicinal products does not apply to the ones analogues of which are not manufactured in Russia and(or) foreign states.

Besides, under the Draft Law the President of Russian Federation may decide to introduce a special national regime for goods, works and services originating from the US and(or) other foreign states, and(or) exemptions to such regime, if the US and(or) other foreign states introduce the national regime under international treaties in respect of goods and services originating from Russia, or exemptions thereto, respectively.

The Draft Law will be considered by the State Duma in its first reading on 15 May this year.

If the Draft Law is adopted without significant changes in terms of prohibitions, restrictions and other sanctions, the subsequent introduction of appropriate measures by the Government of Russia will have significant consequences for American business in Russia, including in pharmaceutical sector [1].

At the same time, according to the Chairman of the State Duma, while preparing the Draft Law for the second reading, it will be discussed with the representatives of the expert community and business operating in the sectors that will be affected by the Draft Law [2].

[1] The proposed prohibitions and restrictions on the import can affect about 140 medicines. The total amount of losses of American manufacturers may amount to 45 bln roubles (in manufacturer's prices), according to the development director of RNC Pharma. <https://pharmvestnik.ru/publs/lenta/v-rossii/rossija-mozhet-zapretitj-vvoz-amerikanskix-lekarstv.html>

[2] <https://pharmvestnik.ru/publs/lenta/v-rossii/vjacheslav-volodin-v-sluchae-vvedenija-sanktsij-18-4-18.html>

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