

Ministry of Industry and Trade approves list of goods for importation to Russia without right holder's consent

19 May 2022

Ministry of Industry and Trade Order No. 1532 of April 19, 2022, which approved a list of goods and groups of goods for which parallel import to Russia is authorized (the **List**), entered into effect on May 7, 2022.

The List was compiled to implement Russian Government Decree No. 506 of March 29, 2022. That decree authorizes the importation into Russia of certain foreign-made original goods without the right holders' consent, if the goods have been introduced into circulation abroad by the right holders themselves or with their consent.

The Russian government earlier announced that temporary authorization of parallel import of certain categories of goods would help to supply the domestic market with goods in high demand and to stabilize the prices for them.

Which goods may be imported without the right holder's consent?

The List includes more than 50 categories of goods, including cars and parts, pharmaceutical products, clothing and footwear, perfume and cosmetics, electronics, household appliances, railway locomotives and rolling stock, tramways, boats, live trees, plants and flowers.

The List provides the EAEU FEACN (commodity nomenclature) codes authorized for importation into Russia without right holders' consent. For certain categories of goods, it indicates specific trademarks that are exempted from civil-law protection. For example:

| EAEU FEACN group | Item | Product and/or means of identification code |
|------------------|-------------------------|---|
| 30 | Pharmaceutical products | 11) 3005 90 100 0 O.B., Carefree |

Some of the trademarks specifically named in the list include: Apple, Asus, HP, GoPro, Aston Martin, Bentley, Jaguar, Land Rover, Bosch, DeLonghi, Siemens, Valtek and others.

Some goods are listed without naming trademarks:

| | | |
|----|--|----------|
| 35 | Albuminoidal substances; modified starches; glues; enzymes | 25) 3506 |
|----|--|----------|

In the latter case, importation to Russia of products under any trademark classified in the relevant EAEU FEACN code should be allowed without the right holder's consent, unless the trademark is one of the exceptions from the list.

It is anticipated that when products are imported to Russia the customs authorities will have to check the EAEU FEACN codes against the brand names that are on the List. However, to date the Federal Customs Service of Russia has not provided official guidance on how the customs authorities should apply the List or on how the List relates to the Customs Register of Intellectual Property mechanism.

Consumer protection

There could be situations where authorizing parallel import could negatively impact Russian consumers' ability to exercise their lawful rights. For example, manufacturers of goods imported by parallel importers may not have an authorized entity in Russia for accepting consumer complaints. In these cases, consumers will not actually be able to submit product quality complaints to the manufacturer.

Independent importers could also import products into Russia that the foreign manufacturer did not intend to be sold in the Russian market. In this situation, the foreign manufacturer (or its authorized entity) may not actually be able to provide product repair and service

because it doesn't have the necessary spare parts and/or consumables.

Labeling requirements

According to the Ministry of Industry and Trade announcement, there will still be a requirement to place digital labels on goods that should be labeled (including light industry goods, perfumes and cameras); the enactment of the List doesn't override that requirement.

What happens next?

The List was meant to be a "flexible" regulatory tool. The Ministry of Industry and Trade is expected to amend the List in real time based on the market situation to avoid product shortages and unjustified price increases. Plus, as foreign business returns to Russian markets, the Ministry could remove trademarks from the List, thereby

protecting foreign suppliers under civil law to encourage other foreign companies to return to Russia.

Antitrust aspect

We remind readers that the Federal Antimonopoly Service has repeatedly spoken out in support of authorizing parallel import. It has even called a right holder's refusal to consider a "parallel importer's" request to authorize the importation into Russia of products acquired in the right holder's foreign distribution network an inaction constituting unfair competition.

So, it is recommended that foreign companies continuing to operate in Russia check their effective distribution agreements to see whether they contain exclusivity terms that could conflict with current regulatory trends.

Contacts



Marat Mouradov

Partner, Head of Russian Competition and Compliance practice

T: +7 495 644 05 00
E: marat.mouradov@dentons.com



Galina Dontsova

Counsel

T: +7 495 644 05 00
E: galina.dontsova@dentons.com



Valeria Ponomareva

Counsel

T: +7 495 644 05 00
E: valeria.ponomareva@dentons.com



Artem Ermoshin

Associate

T: +7 495 644 05 00
E: artem.ermoshin@dentons.com