



# Business Jet Aviation: The Industry Sector That Globalization Forgot

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**T**he demand for business aircraft is expanding rapidly in developing aviation markets such as China and Russia. In China, at least one aviation group is preparing to meet the rising demand for business aircraft by launching its own specialist company.<sup>1</sup> The

Chinese government has indicated that it may ease certain restrictions on business jet operations, but it remains difficult to operate private aircraft in China.<sup>2</sup>

Similarly, in Russia, Western aircraft manufacturers are flooded with new orders and will be for years to come.<sup>3</sup> According to some estimates, the number of business jet rotations at Moscow's aviation hub, which consists of several airports, exceeds the number of business jet rotations at London area airports.<sup>4</sup> During the last three years, the average annual growth of the Russian business jet transportation market has been at 30 percent or more.<sup>5</sup> Yet, Russian regulations and legislation treat business and commercial aviation identically, resulting in significant legal challenges for business aviation market participants.

As the commercial aviation industry moves increasingly towards globalization, the business aviation sector has been slow to follow suit due in significant part to a lack of harmonization among the laws and regulations that apply in different jurisdictions, and, in some cases, the failure of applicable legal and regulatory regimes to recognize the different needs and circumstances of business jet aviation. This article examines the laws and regulations of the Russian Federation governing business aviation as a case study of the complex challenges associated with efforts to globalize this important and rapidly growing sector in the face of disparate legal and regulatory regimes around the world. We review the Russian laws and regulations that apply to key aspects of business jet ownership and operations, including aircraft registration and certification, tariffs and taxes, flight permissions, and rules governing operations by foreign-registered and -owned business jet aircraft in Russia. We specifically contrast the Russian business aviation regulatory regime with the U.S. regulatory

framework, which treats business aviation as a distinct sector with its own modified rules and regulations. We conclude that legal and regulatory reform will be essential to enabling the development of business aviation in Russia and its participation in an increasingly globalized market for business jet aircraft and services.

## Case study: The Russian Federation

Despite the recent downturn in the global economy, Russia shows continued growth in the important business aviation sector. While market participants are understandably excited about these new opportunities, a number of significant legal obstacles threaten the growth and profitability of the Russian business aviation market.

"Business aviation" is a legal concept absent from Russian law. The country's primary aviation regulatory legislation, the Aviation Code, which was adopted in 1997,<sup>6</sup> does not distinguish between business aviation and commercial aviation. By contrast, in the United States, the Federal Aviation Administration (FAA) promulgated a regulatory scheme (the Federal Aviation Regulations or FAR) that applies different safety standards and oversight to different types of operations.<sup>7</sup> Business aviation, air taxi/charter-on-demand operators, and commercial operators (e.g., airlines, large cargo operators) are regulated at a level commensurate with the level of risk associated with the operation and the perceived impact on safety in the national airspace system (NAS).<sup>8</sup> Without this traditional separation between business and commercial aviation, Russian aircraft operators face serious legal obstacles, including those related to import regulations and safety standards.

Many Russian business aircraft owners choose to register aircraft abroad because of the prohibitive expense associated with importing a business jet into Russia and the difficulty of complying with the complex network of Russian laws and regulations.<sup>9</sup> This approach deprives the Russian Federation of a significant amount of revenue in the form of aircraft registration fees. In order to alleviate these problems, the Russian Federation must consider adopting a regulatory structure that involves a more traditional safety risk assessment and developing new laws and regulations to specifically address the unique needs and circumstances of business aviation. A regulatory framework that specifically addresses business aviation in

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context will only benefit the Russian business jet market and its stakeholders (e.g., manufacturers, owners, and operators). More significantly, it will spark further development in this sector during troubled economic times by introducing new economic opportunities into the Russian business jet market.

## **Pre-operation regulations**

### *Tariffs and taxes*

The most significant obstacle business jet manufacturers outside the Russian Federation and prospective owners in Russia face is the import tariff. Customs regulations impose prohibitively high duties on all aircraft imported into Russia. The Customs Tariff of the Russian Federation sets the current rate at 20 percent of the customs duty.<sup>10</sup> An 18 percent value added tax (VAT) increases the total price of the imported jet by 41.6 percent of the initial price.<sup>11</sup> The justification for this import tariff is the need to help the national aircraft manufacturer, United Aircraft Corporation, with its sales program.<sup>12</sup> However, Russian manufacturers neither compete today nor evince any intention of competing with Western manufacturers in the business aircraft market in the foreseeable future.<sup>13</sup>

The Russian Federation is beginning to address this problem. In 2007, concurrent with Russia's preparatory work for its membership in the World Trade Organization, the government introduced a small reduction in the import duty that was clearly drafted with business jets in mind.<sup>14</sup> This decreased the import duty to 10 percent on aircraft with a maximum zero fuel weight of 20,000 kilograms and less than 19 seats. Then, in July 2008, the government removed the import duty on those small aircraft altogether for a period of nine months.<sup>15</sup> These tariff reductions are a step toward the Russian government's goal of ultimately abolishing import duties on business aircraft (defined as aircraft with a maximum zero fuel weight of 20,000 kilograms or less).<sup>16</sup> Russian business jet operators are often at a great disadvantage compared to their commercial airline counterparts because Russian airlines often receive a temporary release or waiver from the import duties.<sup>17</sup> In practice, this means that special decrees are issued by the government allowing, in effect, duty-free import of certain types of aircraft by certain commercial carriers within a limited time frame.<sup>18</sup>

The reduction or abolition of import duties, however, does not resolve the issue of the VAT imposed on all aircraft sales. There is currently an 18 percent VAT imposed on imported business aircraft, as opposed to the 41.6 percent increase in the price of larger imported aircraft.<sup>19</sup> The VAT, unlike import duties, affects foreign and domestic manufacturers equally. No amendments to the national tax code that would impact the VAT are expected in the near future.<sup>20</sup> This makes the aircraft market for prospective owner/operators in Russia comparable to that faced by owner/operators in the European Union because the EU imposes a similar

VAT, which also affects foreign and domestic manufacturers equally.

### *Aircraft certification*

After facing import duties and the VAT, a prospective owner/operator wishing to import a business jet into Russia faces issues related to certification. Aircraft certification in the Russian Federation must be conducted in accordance with the International Civil Aviation Organization's (ICAO) Standards and Recommended Practices (SARP), and is carried out by the Interstate Aviation Committee (IAC). The Intergovernmental Agreement on Civil Aviation and Air Space Use of January 30, 1991, which was signed by the former Soviet republics, including Russia, established the IAC as the certification body for the former Soviet republics. (The IAC replaced the certification body that existed as a part of the Soviet Union.)

As in the United States, the aircraft certification process includes administrative and technical components. In Russia, the IAC carries out aircraft certification in accordance with Part 21 of its Aviation Regulations, "Procedures on Certification of Aviation Equipment," which places the burden of the necessary groundwork on the applicant (aircraft operator).<sup>21</sup> In the same way that the FAA issues a type certificate (TC) in the United States, the IAC issues a TC as a design approval when the applicant demonstrates that the aircraft complies with the applicable regulations. In Russia, generally, it takes several months to complete the certification process for foreign-manufactured aircraft.<sup>22</sup> However, if the applicant's aircraft is not on IAC's certified types list,<sup>23</sup> the applicant will be required to equip the foreign-manufactured aircraft with additional instruments specific to Russian-made aircraft.<sup>24</sup> As with any TC process, this is costly and time-consuming, and involves a great deal of certification paperwork. Given these challenges, some Russian operators opt to purchase and operate Russian-made aircraft or older Western aircraft types, which constitute the majority of business jets currently certified by IAC, in order to avoid a lengthy and expensive certification process.<sup>25</sup>

### *Aircraft registration*

After the aircraft has been imported and a TC issued, the operator is required to register the aircraft on its Air Operator's Certificate (AOC). In the Russian Federation, this process is time-consuming and fraught with red tape. Business jet operators in Russia are subject to the same standards as any large AOC holder, which is equivalent to the U.S. certification process under FAR Part 121 for commercial air carriers.<sup>26</sup> In the United States, by contrast, business jet operators operating aircraft with a seating configuration of less than 20 passengers or a maximum payload capacity of less than 6,000 pounds are not required to have an AOC. Rather, business jet operations in the United States are usually conducted in accordance with the "General Operating and Flight Rules" contained in FAR Part 91.

Given the comprehensive review and evaluation process involved in obtaining an AOC in Russia, operating a business jet becomes a far less convenient alternative to commercial flights. The Russian model bolsters the argument that streamlined procedures are appropriate to account for the different nature, purpose, and risks of business jet operations. Russian business jet owners have the option of registering aircraft in other countries, but the Russian AOC requirements are also an obstacle for foreign entities operating foreign-registered aircraft.<sup>27</sup> In accordance with Paragraph 2, Article 61 of the Russian Aviation Code, enacted on March 19, 1997, an AOC can only be granted to a company where foreign ownership does not exceed 49 percent, the manager is a citizen of the Russian Federation, and no more than one-third of the people on the managing board are foreign citizens. In essence, this means that only Russian-controlled entities are allowed to operate Russian-registered aircraft.

Requiring business jet operators to obtain an AOC effectively undermines the appeal of business jet operations and is not consistent with a risk-based approach to regulatory requirements, which generally imposes additional regulatory requirements on commercial operators. As previously noted, Russian legislation and regulations were adopted prior to the evolution of Western regulations governing business jet operations and the emergence of the business jet market in Russia. The Russian Federation is trying to address this dated approach to the business aviation sector.

#### *Crew requirements*

Another limitation for business jet operations involves the citizenship of the aircraft crew members. According to Article 56 of the Aviation Code, the crew of a Russian-registered aircraft must consist only of Russian citizens.<sup>28</sup> Furthermore, the Law on Legal Status of Foreigners in the Russian Federation<sup>29</sup> requires the captain of a Russian-registered aircraft to be a Russian citizen. Considering the industry-wide shortage of qualified pilots,<sup>30</sup> these provisions effectively require a Russian operator to employ and arrange training for at least one complete Russian crew months before importing an aircraft. While this may seem like a straightforward cost of doing business, it is a risky and imperfect solution because the Labor Code, among other Russian employment laws, does not provide the employer with any legal mechanism for securing the obligation of the employed pilot to remain with the particular operator for any fixed term or to repay the training costs if he leaves the company.<sup>31</sup>

The above-mentioned restrictions severely limit the operator's ability to import and operate a business jet or any foreign-made aircraft in Russia. Commercial airlines enjoy an obvious advantage over the typical corporate jet purchaser in this regard due to the sheer scale of the operations and the experience they possess. Pilot training is expensive and the requirement to

use Russian crews can make the operation even more cost prohibitive. Again, business jet operators are at a disadvantage compared to their commercial counterparts, which can afford to keep engineering personnel carrying out certification work, when necessary, and can enter into long-term agreements with pilots' schools in order to secure a constant source of qualified flight crews.

#### **Business jet operations**

According to Article 79 of the Aviation Code, international aircraft operations must be carried out in conformity with the rules, regulations, and aeronavigational data contained in a special publication, the "Collection of Information on Air Navigation of the Russian Federation" (Collection).<sup>32</sup> This set of documents is compiled and issued by the Center of Air Navigation Information of the Russian Federation, a subsidiary of the Federal Air Navigation Service (FAS). The Collection contains diverse legal acts issued by different authorities, including federal laws, presidential and government decrees, and aviation authorities' rulings, and is updated on an ongoing basis because these policies change frequently.

The Russian aviation authorities, pursuant to the Collection, treat Russian business aviation flights differently from their international counterparts. To begin with, such flights are regarded as commercial flights despite the fact that the flights are not operated "for compensation or hire."<sup>33</sup> A business jet with an AOC that is limited to general aviation may only be operated as a private flight for the transportation of its owner.<sup>34</sup> Under all other circumstances, a "full" AOC (for commercial operations) is necessary with all of the resultant additional liabilities.<sup>35</sup> Under applicable Western rules, the regulations are more appropriately suited to each type of operator and a clear distinction is drawn between personal flights and flights "for compensation or hire."

In the United States, the FAA's regulatory regime governing aircraft operations, which applies to all operations in the NAS, is based on the nature of the operation, whether the operation is being conducted for compensation or hire, and applies an increasingly stringent set of restrictions on certain commercial operators. The FAR do not require business aircraft operators who do not operate flights for compensation or hire to obtain an AOC. In applying a safety risk-based analysis, the FAR allow the business aviation sector to operate within a certain regulatory framework, while additional requirements are placed on air taxi/charter and commercial airline operations. In Russia, there is no such distinction, and business jet operations are regulated in the same fashion as commercial airline flights.

#### *Flight permissions*

All flights require special permission from FAS.<sup>36</sup> Simple notification of the intention to fly in a certain direction will not be accepted.<sup>37</sup> The Collection

includes a number of different legal documents that regulate the process of obtaining the required permission to fly, but the primary source of regulatory guidance is the Federal Regulations on Use of Airspace of the Russian Federation.<sup>38</sup>

In order for an individual to fly a single flight to a particular destination, a Russian operator must obtain permission one day prior to the flight. In practice, it is not difficult to obtain the necessary permission in three hours provided that there is an “urgent need” for the flight.<sup>39</sup> Approvals for regular flights of an air taxi service, which is similar in nature to an on-demand operation in the United States conducted under FAR Part 135, require the same licenses as those for airlines flying a route: The operator must carry out a technical flight<sup>40</sup> on the route in question and enter into a technical support agreement with a local provider at the destination airport.<sup>41</sup> Under the FAR, such flights are deemed proving tests or demonstration flights and are required by the FAA in certain circumstances for Part 121 and Part 135 certificate holders.

#### *Ticketing requirements*

Under Russian law, there is a significant deviation from accepted international practice in that business jet operators (whether individual owners or air taxi operators) are required to issue tickets to their passengers.<sup>42</sup> This ticket becomes the primary binding contract of carriage, superseding any other arrangements that may exist between the customer and the jet operator.<sup>43</sup> Clearly, this kind of legal relationship raises additional liabilities and risks for both the passenger and the business jet operator. For instance, the operator is responsible for providing the aviation authorities with a list of all passengers onboard and ensuring that all passengers pass through airport security controls. At the same time, the operator’s exposure to the risks associated with any delays or luggage loss is limited by the standard provisions of the ticket. While the FAR contain certain passenger manifest requirements for air taxi/charter and commercial airline operators, tickets are not required or issued to general aviation passengers. In fact, the aviation regulatory framework in the United States treats ticketing as an economic process regulated by the U.S. Department of Transportation (DOT). The requirement to ticket business aviation passengers is a unique and burdensome requirement on Russian operators.

#### **The foreign registration and ownership “solution”**

The immature and highly fragmented Russian business aviation sector cannot overcome legal obstacles in the same manner as commercial airlines. Commercial airlines receive favorable government treatment due to their size and impact on Russian transportation, while business jet operators must find another way to mitigate these cumbersome legal challenges. In light

of the difficulties accompanying the purchase, import, and operation of a business jet by a Russian company, many Russian-controlled companies have registered their air operators abroad to avoid being subjected to these restrictive aviation laws and regulations.<sup>44</sup> Numerous sources indicate that foreign jet operators control around three-quarters of the Russian business jet transportation market.<sup>45</sup> While it may seem logical, this approach results in a series of legal problems.

#### *Cabotage flights*

The first problem is the inevitability of performing cabotage flights in the territory of the Russian Federation. To make these flights legal and obtain the relevant permission from FAS, foreign operators may only carry out flights from one part of the country to another as a constituent leg of an international operation.<sup>46</sup> The flight must originate and end in a foreign jurisdiction, making it impossible to fly between any two points in Russia without adding at least two additional legs into and out of the country. Although this makes the flight more expensive due to the deadhead legs, it is the only approach that, after FAS permission, makes the foreign operator’s revenue flights legal under Russian law and consistent with the Chicago Convention.<sup>47</sup>

Cabotage flights in Russia, just like in most other countries, are allowed only in special cases (e.g., the transportation of government officials and on special requests). Therefore, all the permissions are granted as a matter of exclusion from the general rules, thus making the exclusions a paradoxically normal practice.

Foreign operators must obtain permission five days prior to the flight as compared to the one-day term required for their Russian-registered counterparts.<sup>48</sup> Applications for special cases will be considered three hours in advance of the flight.<sup>49</sup> In addition to this document, which governs how the applicant must obtain flight permissions, there is yet another document that governs how various governmental agencies involved in the process must interact.<sup>50</sup> These documents form the critical regulatory framework for approvals of foreign registered aircraft in Russian airspace and can be found in the Collection.

Ownership of a business jet can be full or joint, meaning that one or more persons may own it. The owner or owners of a foreign-registered business jet must obtain permission from FAS to perform cabotage flights in Russia for their own transportation. Stand-alone cabotage flights are permitted by the Russian aviation authorities only for business aviation flights that are, at least nominally, not revenue-based.<sup>51</sup> Even after the flight that transported the owner of the plane is completed, the aircraft that received the permission is still supposed to leave the country.

Permission for cabotage flights can only be granted by FAS after the operator has submitted a set of

required documents, including, but not limited to, the AOC, aircraft registration certificate, air worthiness certificate, pilots' licenses, third-party liability insurance certificates, and list of the passengers onboard or, in the case of the owners' flight, a list of the owners' names together with any internal regulations governing the use of the jet by corporate executives.<sup>52</sup> FAS can also request any additional documents that it deems appropriate and can reject an application without any explanation.<sup>53</sup>

### Ownership

Although in some ways highly regulated, business jet operations in other ways also exist in a legal vacuum that has led to the phenomenally rapid growth of fractional jet operations with foreign-registered aircraft.<sup>54</sup> This concept is new in Russian aviation and has developed in response to overregulation of Russian-owned and -operated business jets. If business jet ownership and operation were treated differently from commercial aviation, the need for foreign-registered, -owned, and -operated business jets would diminish. However, a niche market for foreign-owned and -operated business jets has emerged in response to the Russian authorities' failure to develop laws and regulations that are specific to business aviation. Such regulations would make ownership and operation less complicated and thus eliminate the need to avoid Russian ownership and registration of business jets.

### Customs rules

Any foreign jet that crosses the Russian border can remain in the country as a means of transportation, without being subjected to an import duty and tax as a good, only if it is being used for the purposes of a transportation operation it was supposed to complete when it crossed the border and leaves the country immediately after this operation is over.<sup>55</sup> In all other cases, a customs declaration should be submitted no later than 15 days after the aircraft has crossed the border of the country.<sup>56</sup> In essence, this means that foreign aircraft can be stationed in Russia for 15 days before they must leave the country, which allows some foreign operators to claim that they "base" their aircraft at a Russian airport.

### Conclusion

The Russian experience exemplifies the challenges involved in globalizing the business aviation sector. Significant reform of the Russian regulatory framework will be necessary in order for Russian business aviation to meet its economic potential and achieve a sustainable level of growth. The Russian government has a significant interest in reforming the outdated legislation because such reform will allow air transportation and related infrastructure to develop in accordance with modern needs and also will redirect much-needed cash flow back into the country by eliminating the current

requirements relating to foreign-ownership and registration of business aircraft.

Due to these legal challenges, operators of foreign-registered business jets in Russia today appear to be better positioned than their Russian counterparts, who face high import duties, restrictions on crew employment, and a complex network of legal restrictions that could undermine the economic viability of a potentially dynamic and profitable sector of the aviation market.

Fortunately, however, change is in the air. Today, government agencies and industry associations are lobbying to improve the business aviation situation inside Russia. In the near future, major legislative initiatives designed to address the patchwork of laws and regulations that currently dominate the landscape of business aviation are likely to be introduced. This will create substantial opportunities for both Russian business aviation and Western manufacturers of business aircraft, while also enabling Russian aviation to replicate, if not exceed, the success of its international counterparts.

### Endnotes

1. *Business Jet Firm Set Up to Meet Demand*, SHANGHAI DAILY.COM, Oct. 31, 2009.
2. *Chinese Sales Prospects for Business Aircraft Rise as Regulatory Barriers Fall*, Aviation Daily, Oct. 9, 2009, at 4.
3. *US Business Jet and Helicopter Makers Experience Sales Boom*, DOMAIN-B.COM, Oct. 19, 2007, [http://www.domain-b.com/industry/aerospace/20071019\\_business.htm](http://www.domain-b.com/industry/aerospace/20071019_business.htm); *Меч и пилуз Dassault Aviation*, May 31, 2006, <http://www.businessair.ru/info/news.php?id=147>; *Компания NetJets Europe подписала самый крупный в истории Европы заказ на поставку бизнес-джетов*, Sostav.ru, Sept. 27, 2006, <http://www.sostav.ru/news/2006/09/27/ko1>.
4. *Обзор рынка деловой авиации московского аэроузла*, <http://www.jetcharter.ru/new/news>, May 31, 2006.
5. See, e.g., Howard Gethin, *Bear Market Introduction: More and More Russians Are Getting the Taste for Business Aviation. But Can Barriers Blocking the Sector's Growth Be Removed So It Can Expand Even Further?* FLIGHT INT'L, May 13, 2008 (noting that Russian business aviation "annual fleet growth is estimated at 35%"). See also Grant McLaren, *Flying to Moscow*, PROF'L PILOT, Sept. 8, 2008, [http://www.propilotmag.com/archives/2008/Sept08/A4\\_Moscow\\_p2.html](http://www.propilotmag.com/archives/2008/Sept08/A4_Moscow_p2.html) ("RBAA anticipates annual bizav fleet growth to continue to grow in excess of 30% for the foreseeable future with the majority of corporate transports based in Moscow."); *JetExpo Moscow 2007 (International Business Aviation Exhibition)*, CELWAYONE, Oct. 17, 2008, at Event Listing, <http://www.celwayone.com/events/event.htm?id=320> (according to the Russian Business Aviation Association, "the number of business flights to and from Moscow grows by an impressive 30 percent a year").
6. Federal Law No. 60, adopted by the State Duma (the lower chamber of Russian parliament) on Feb. 19, 1997, enacted on Mar. 19, 1997, with amendments from Dec. 4, 2007, adopted Feb. 2, 1997, enacted Mar. 3, 1997.
7. Title 14, Code of Federal Regulations.
8. See 14 C.F.R. pts. 91, 135, 121.
9. Indeed, at the time the legislation was drafted, the FAA was advising the Russian government on such legislation, yet the FAA itself had not addressed many of the legal and safety issues particularly associated with commercial jets.
10. МЭРТ пошел на снижение, <http://www.planes.ru/main.php?idx=83&dir=shownews>.
11. See Gov't of Russian Federation Decree No. 508, Aug. 11, 2007, Introduction of Amendments to Russian Customs Tariff Regarding Certain Types of Civil Aircrafts [hereinafter Decree No. 508].
12. Internet interview with A.A. Kaulbars, director of foreign trade and customs affairs regulation department, Ministry of Economic Development, Russia (Apr. 18 2005), <http://www.consultant.ru/law/interview/kaulbars.html>.

13. *Все джеты в гости к нам?* May 31, 2006, <http://www.jetcharter.ru/new/news>.

14. Decree No. 508, *supra* note 11.

15. Resolution of the Government of the Russian Federation 2008, No. 563.

16. Business Aviation Group, *МЭРТ РФ за отмену ввозных пошлин на бизнес самолеты* (Apr. 1, 2006), available at <http://www.businessair.ru/info/news.php?id=121>; *Пантелеев Олег, Таможенные пошлины на ввоз самолетов деловой авиации будут отменены* (Apr. 25, 2006), available at <http://www.aviaport.ru/news/2006/04/25/140475.html>; [http://www.avia.ru/\\_INCLUDES/\\_in\\_news/0/6/1144035906.shtml](http://www.avia.ru/_INCLUDES/_in_news/0/6/1144035906.shtml).

But Russia may have dropped the 20 percent import duty on all aircraft with fewer than 50 seats. *Ivanov: Russia to Keep Import Duty on Planes with 100-200 Seats*, PRIME-TASS ENGLISH-LANGUAGE BUSINESS NEWSWIRE (Oct. 17, 2008) ("Import duties on types of aircraft that are not produced in Russia and have up to 50 seats or over 200 seats have been canceled.")

17. Gov't of Russian Federation Decree No. 18-98-r 1994, renewed 1998. See also <http://www.rbcdaily.ru/archive/2004/01/20/50295>; [http://www.kommersant.ru/region/spb/page.htm?id\\_doc=542182](http://www.kommersant.ru/region/spb/page.htm?id_doc=542182); <http://www.kommersant.ru/doc.aspx?fromsearch=82b28e92-4f81-424e-99bf-b271138f3f09&docid=552496>.

18. See <http://www.caica.ru/english/index.htm>.

19. See <http://www.finmarket.ru/z/nws/news.asp?id=482845>.

20. No amendments have been made to Tax Code Russia regarding types and rates of taxes and a discussion of a reduction in the VAT for 2009 has been postponed. See Darya Korsunskaya, *Russia's Tax Reform Sees VAT Cut to 12-13 pct*, REUTERS (Mar. 16, 2008), <http://www.reuters.com/article/companyNews/idUSN1649151420080316>.

21. Federal Aviation Rules on General Aviation Aircraft Operator, Registration Procedures and Control (Ministry of Transport Russia, Order No. 147, June 18, 2003); Federal Aviation Rules on Commercial Aircraft Operator Certification Requirements, Certification Procedure (Ministry of Transport Russia, Order No. 154, Dec. 23, 2005; Order No. 103, July 25, 2007).

22. Indeed, IAC has established a list of aircraft that it accepts for certification purposes. This list contains most major Western aircraft types. If the aircraft is on this list, then it is accorded favorable treatment as aircraft on the list are deemed to have met a higher certification standard.

23. IAC's certified types list is available at <http://www.mak.ru>.

24. *Vozdushnyi Kodeks RF [VOK] [Air Code]* art. 37.

25. For example, a review of the IAC list in November 2008 reveals that the latest Western business jet added to the list was the Challenger 300. No newer business jet equipment has been certified since that time even though there is more modern equipment available for such certification. Indeed the newest Gulfstream certified by IAC was the Gulfstream IVSP and this was accomplished in 1996.

26. Ministry of Transport Russia, Order No. 154 (Dec. 23, 2005), No. 103 (July 25, 2007).

27. Foreign entities would include Russian-owned foreign-registered equipment.

28. *Vozdushnyi Kodeks RF [VOK] [Air Code]* art. 56(4).

29. No. 115 FZ, art. 14, ¶ 4 (adopted July 15, 2002), ¶ 1(4).

30. According to Aeroflot information, every year more than 1,000 out of 10,000 qualified pilots leave their jobs due to retirement, health problems, or moving outside Russia.

31. Although the Russian Labor Code art. 249 states that in case of a voluntary termination (without cause) prior to maturity of an employment agreement or training agreement, an employee is obliged to repay training costs estimated in proportion to the real time not worked after finishing training, unless otherwise provided in the employment agreement, in fact, pursuing such a claim is highly impractical and not likely to achieve success on the part of the employer. *Trudovoi Kodeks RF [TK] [Labor Code]* arts. 80, 238, 249 (adopted Dec. 21, 2001, enacted Dec. 30, 2001).

32. Ctr. of Air Navigation Information, Fed. Air Navigation Serv. (Russian Federation), Collection of Information on Air Navigation of the Russian Federation [hereinafter Collection].

33. *Id.* at Gen. 1.2.

34. *Vozdushnyi Kodeks RF [VOK] [Air Code]* art. 21.

35. *Id.* arts. 116-35.

36. *Id.* arts. 66, 67.

37. *Id.* art. 70 (requiring the submission of a flight plan and permission from the air traffic control system).

38. Fed. Regulations on Use of Airspace of the Russian Federation, ch. 2, Aviation Code of Russia, adopted by the Government Decree from No. 1084 on September 22, 1999, with amendments from December 14, 2006.

39. FAS Decree No. 69 from July 20, 2007, On Organization of Issuing Permissions to Carry Out Flights.

40. A "technical flight" is one with an inspector from the Federal Service for Supervision onboard the aircraft. Technical flights consist of bringing an aircraft into service with no passengers on board and requires filing a special form approved by State Aviation Committee (May 13, 2005), <http://obrazec.by.ru/baza07/blan6816.shtm>. This requirement stems from Article 397 of the Air Code, which requires air taxi operators to obtain a commercial Air Operator's Certificate.

41. See, e.g., Federal Aviation Rules from Feb. 4, 2003, Certification Requirements to the Operators of Commercial Civil Aviation. Procedures of Certification; Federal Aviation Rules from Mar. 27, 2003, Requirements on Air Safety to the Operators of General Aviation Aircraft; Federal Aviation Rules from Apr. 17, 2003, Regulations on the Order of Admission to Operate a Single Example of a General Aviation Aircraft; Federal Aviation Rules from June 18, 2003, with amendments from Nov. 30, 2007, Operators of General Aviation. Requirements for the Operators of General Aviation, Procedures on Registration and Control on Activities of the Operators of General Aviation; Federal Aviation Rules on Technical Support and Repair of Aviation Equipment (Ministry of Transport Russia, Order No. 117, Aug. 13, 2007); Federal Aviation Rules on Aviation Engineer Support of Russian Aircrafts on International Airlines and Abroad (Ministry of Transport Russia, Order No. 102, Apr. 8, 1998; Order No. 160, Dec. 22, 2000). The technical flight for an air taxi operator in Russia is quite similar to a demonstration flight or proving test under the FAR in the United States. Thus, for example, under 14 C.F.R. § 135.145, applicants for certification must conduct 25 hours of proving tests that are acceptable to the FAA administrator.

42. *Vozdushnyi Kodeks [VOK] [Air Code]* art. 105(2); Federal Aviation Regulations, General Rules of Air Transportation of Passengers, Luggage and Cargoes and the Requirements for Service to Passengers, Consignors and Consignees.

43. *Vozdushnyi Kodeks [VOK] [Air Code]* art. 105.

44. Report on Legal Aspects of Foreign Capital Use for Russian Business Aviation Development, Russian Business Aviation Conference, art. 2.2.2 (Mar. 15-16, 2007), <http://www.cls.ru/reviews/3209>.

45. According to The National Association of Business Aviation of Russia, in 2005 and 2006 foreign operators spoke for more than 95 percent of the business jet market. <http://www.aviaport.ru>, Mar. 19, 2007. In February 2008, the Russian Deputy Minister of Transportation, in speaking with the author, estimated a more conservative figure of 75 percent of the business aviation market as being controlled by non-Russian operators.

46. See, e.g., *Vozdushnyi Kodeks [VOK] [Air Code]* arts. 63 (Commercial Activities of Foreign Aviation Enterprises, International Operating Agencies), 79 (Foreign Individual Entrepreneurs in Civil Aviation).

47. Convention on International Civil Aviation (Chicago Convention 1944), ch. 2, art. 7.

48. Federal Regulations on Use of Airspace of the Russian Federation (Dec. 14, 2006).

49. *Id.* The application for such a permission is set forth more specifically in the Ministry of Transport's Instruction No. 84 (May 14, 2001) ("On Interaction of Federal Institutions of Executive Power on Approval and Issue of One-Time Permissions for Flights of Foreign Aircraft in Russia") and the previously mentioned FAS Order No. 69 (July 20, 2007) ("On Organization of Issuing Permissions to Carry Out Flights").

50. See, generally, The Ministry of Transport, Instruction No. 84, "On Interaction of Federal Institutions of Executive Power on Approval and Issue of One-Time Permissions for Flights of Foreign Aircraft in Russia" (May 14, 2001).

51. Collection, *supra* note 32, at Gen. 1.2, 1.3, & 1.6.

52. *Id.*

53. *Id.*

54. Legal Aspects of Foreign Capital Use, *supra* note 44, arts. 2.2.1, 2.2.2, 2.3.

55. *Tamozhennyi Kodeks RF [TAK] (Customs Code)*, arts. 270, 272, 279.

56. *Id.* art. 129.