

# Russia

## Energy

### **On 7 December 2006 the Government adopted Resolution No. 750 "On Amending Certain Acts of the Government of the Russian Federation."**

The Resolution amends, among other things, Government Resolution No. 1021, dated 29 December 2001, regarding state control over gas prices and tariffs for gas transportation on the territory of the Russian Federation.

According to the amendments, the regulated wholesale gas prices and fees for gas supply services shall not apply to gas extracted by organizations which are not affiliated with (i) "Gazprom" and/or (ii) organizations which are the owners of regional gas supply systems or organizations established pursuant to Presidential Decree No. 1403 "On the Specifics of Privatization and Reorganization into Joint Stock Companies of State Enterprises, Production Associations and Scientific and Production Associations of Oil, the Oil Refining Industry and Oil Supplies," dated 17 November 1992.

The Resolution came into force on 20 December 2006.

## Environmental

### **On 4 November 2006 the Government adopted Resolution No. 640 "On Criteria for the Attribution of Bodies of Water to the Bodies of Water Subject to State Federal Control and State Regional Control Over the Use and Protection of Bodies of Water."**

The Resolution sets out the criteria for the attribution of bodies of water to state federal and state regional control.

State federal control shall be established over the use and protection of bodies of water meeting specific criteria expressly listed by the Resolution.

State regional control shall be established over the use and protection of bodies of water which (i) are entirely located within the territory of the respective constituent entity of the Russian Federation and (ii) are not attributed to bodies of water subject to state federal control.

The Resolution entered into force on 14 November 2006.

## Land

### **On 15 November 2006 the Government adopted Resolution No. 689 "On State Land Control."**

According to the Resolution, state land control seeks to ensure compliance with the statutory requirements for the protection and use of lands. The Resolution lists the federal bodies which are authorized to exercise state land control. These include the Federal Agency for the Cadastre of Immovable Property ("Rosnedvizhimost"), Federal Service on Supervision of the Natural Environment ("Rosprirodnadzor"), and Federal Service for Veterinarian and Phytosanitary Supervision ("Rosselkhozadzor").

In particular, Rosnedvizhimost will monitor the use of lands (including forest fund lands), control and maintain the boundary marks of land plots, and prevent the unauthorized seizure of lands. Rosprirodnadzor will supervise the rehabilitation of lands following construction and exploration works, and the use of land plots and forests located in water protection zones and on lands bordering bodies of water.

Rosselkhozadzor will oversee the restoration of agricultural lands. According to the Resolution, Rosnedvizhimost officials are authorized to request from authorities, companies, and individuals information on the use and protection of lands (including documents certifying the rights to land plots and buildings located thereon), to issue warnings and impose administrative penalties in the event of violation of the land law.

Land users must provide information related to state land control at Rosnedvizhmost's written request. Such requests cannot be issued more than once a year.

The Resolution will enter into force on 1 December 2006 and invalidate Government Resolution No. 833, dated 19 November 2002, regarding the same matter.

**On 4 December 2006 the President signed Federal Law No. 204-FZ amending Article 87 and Article 89 of the Land Code.**

The Law affects the legal regime for the use of land in the power sector.

The Law provides for the establishment of protection zones with special conditions for the use of land plots (currently used by the power sector) irrespective of their land category. Such protection zones shall be established in order to guarantee the safe maintenance of electric power facilities.

The Law authorizes the Government to set out the procedures for establishing such protection zones and for using the respective land plots.

The Law will come into force 19 December 2006.

**On 30 November 2006 the Government issued Resolution No. 728 approving hydro-graphic and hydro-economic zoning of the territories of the Russian Federation and borders of water basin constituencies.**

Pursuant to Articles 28 and 32 of the Water Code, the Resolution empowers the Federal Agency for Water Resources to conduct hydro-graphic and hydro-economic zoning on the territories of the Russian Federation.

Under the Resolution, the borders of water basin constituencies will be determined based on (i) the borders of hydro-graphic units included in a water basin constituency, and (ii) the borders of the internal sea and territorial sea which are adjacent to the relevant water basin constituencies.

The Ministry of Natural Resource must approve the borders by 1 September 2007.

The Resolution will come into force on 1 January 2007.

**On 30 November 2006 the Government issued Resolution No. 727 approving the "Regulation on the Establishment and Operation of the Water Basin Councils."**

Pursuant to Article 29 of the Water Code, the Regulation sets out the procedure for the establishment and the functioning of water basin councils.

The Regulation authorizes the Federal Agency for Water Resources to decide on the establishment of water basin councils for five years.

Pursuant to the Regulation, the water basin councils will develop recommendations related to the use and protection of bodies of water. The respective recommendations will be taken into account during the development of projects related to the complex use and protection of bodies of water.

The Regulation will come into force on 1 January 2007.

**Forestry**

**On 18 November 2006 the Government adopted Resolution No. 698 amending certain Government resolutions for the use of forest land plots.**

The Resolution amends, among other things, Government Resolution No. 345, dated 24 March 1998, regarding the lease of forest plots, in order to bring the procedure for the lease of forest land plots for the purposes not related to forestry into compliance with the Forest Code as amended by Federal Law No. 154-FZ, dated 27 July 2006 (discussed in our update for 31 July – 6 August 2006).

According to the amendments, the Federal Forestry Agency and the executive bodies of the constituent entities of the Russian Federation will decide, within the scope of their respective authority, on the lease of forest plots for purposes not related to forestry and forest use. The amendments specify these purposes, including, among others, geological study, exploration and production of natural resources, construction and reconstruction of power transmission lines, communication lines, pipelines and other linear facilities.

The respective decisions require a positive opinion to be issued upon a state ecological expert

review with regard to the documentation underlying the proposed activities on forest plots.

The Resolution will come into force on 8 December 2006.

## Concessions

**On 11 November 2006 the Government adopted Resolution No. 672 approving a model concession agreement for pipeline transportation facilities and Resolution No. 673 approving a model concession agreement for facilities for the generation, transmission and distribution of electric and thermal power.**

Pursuant to Federal Law No. 115-FZ "On Concession Agreements," dated 21 July 2005 (see our update for 25-31 July 2005), under a concession agreement, an investor ("concessionaire") must commit itself to constructing and/or reconstructing, at its own expense, certain immovable property whose title is, or will be vested in the Russian Federation, a constituent entity of the Russian Federation or a municipality ("grantor"). After the construction or reconstruction of the relevant property, the grantor must agree to grant the concessionaire the right to possess and use this property for the period established in the concession agreement.

Resolution No. 672 approves a model concession agreement for pipeline transportation facilities. Resolution No. 673 approves a model concession agreement for facilities for the generation, transmission and distribution of electric and thermal power.

A specific concession agreement for these facilities shall be concluded based on the relevant model agreement. It may include provisions that are not envisaged by the model agreement, unless they contradict Russian legislation.

Both Resolutions came into force on 28 November 2006.

**On 5 December 2006 the Government adopted Resolutions Nos. 739, 744, 745, 747 and 748 approving model concession agreements for respectively, airport infrastructure, railway transport, sea and river ports, hydrotechnical facilities and utility infrastructure systems.**

Pursuant to Federal Law No. 115-FZ "On Concession Agreements," dated 21 July 2005 (see our

update for 25-31 July 2005), under a concession agreement an investor ("concessionaire") must commit itself to constructing and/or reconstructing, at its own cost, certain immovable property title of which is or will be vested in the Russian Federation, a constituent entity of the Russian Federation, or a municipality ("grantor"). After the construction or reconstruction of the relevant property, the grantor must agree to grant the concessionaire the right to possess and use this property for the period established in the concession agreement.

Resolution No. 739 approves a model concession agreement for airfields, buildings and/or facilities designed for the takeoff, landing, taxiing and parking of aircraft and for the airport engineering infrastructure. Resolution No. 744 approves a model concession agreement for the railway transport.

Resolution No. 745 approves a model concession agreement for sea and river ports and their hydrotechnical constructions, production and engineering infrastructure.

Resolution No. 747 approves a model concession agreement for hydrotechnical constructions. Resolution No. 748 approves a model concession agreement for utility infrastructure systems and other public utility facilities, including water, heat, gas and power supply, water drainage and sewage disposal facilities, facilities for the processing and disposal of domestic wastes, facilities designed for the lighting of cities and countryside settlements and for the beautification of the territories.

Specific concession agreements for these facilities will be concluded based on the relevant model agreement. It may include provisions that are not envisaged by the model agreement, unless they contradict Russian legislation.

The respective Resolutions will come into force 7 days after their official publication.

## Town Planning

**On 19 October 2006 the Ministry of Regional Development issued Order No. 120 approving the "Instruction on the Procedure for Filling in Construction Permission Form."**

On 24 November 2005 the Government issued Resolution No. 698 approving the construction permission form in accordance with the provisions

of the Town-Planning Code (discussed in our update for 21 November–4 December 2005). The Order now sets out the rules for filling in this form. This effectively allows to issue construction permissions in compliance with the Town-Planning Code.

The Order will enter into force on 27 November 2006.

**On 20 November 2006 the Government adopted Resolution No. 702 approving the “Rules for Federal Executive Bodies’ Identification of Underlying Causes for Town-Planning Regulation Violations.”**

The Rules set out the procedure for investigating violations of the town-planning regulations in the course of construction of, reconstruction of or overhaul repair works on certain capital construction sites. These include, among other sites, nuclear facilities, hazardous industrial facilities, communication lines and military facilities.

The Rules apply when fatal or serious bodily injuries are caused to individuals or damage inflicted upon the property of individuals and/or legal entities on such capital construction sites. The Rules apply to the extent the relevant relations are not governed by the legislation related to the protection of the population and territories from natural and man-made disasters, waterworks safety rules, industrial safety regulations or technical rules. According to the Rules, the Federal Service on Ecological, Technological and Nuclear Supervision or, with regard to military facilities, the Ministry of Defense will verify information from individuals, legal entities or the authorities regarding an alleged breach of the town-planning legislation which caused the damage.

The appropriate federal executive body may then form a special technical commission which is authorized to act within a maximum term of five months to (i) investigate the violation of the regulations applicable to town-planning activities and (ii) issue an opinion determining the cause of the breach and the harm inflicted and to set out measures to restore safe environment.

The Resolution will come into force on 8 December 2006.

## Competition

**On 20 November 2006 the Federal Antimonopoly Service (“FAS”) issued Order No. 293 approving the form for submission of a list of persons belonging to one group.**

The Order was registered with the Ministry of Justice on 4 December 2006.

The Order was issued pursuant to Federal Law No. 135-FZ “On the Protection of Competition,” dated 26 July 2006 (“Competition Law”) (discussed in our update for 24-30 July 2006 and the Special Update on Antimonopoly Legislation in November 2006).

The Order includes a form and requires an additional schematic drawing, which must list all the persons belonging to one group. The form contains two sections which separately reflect the legal entities and individuals belonging to one group.

The drawing and the form must both be in a hard copy and in electronic form and must be submitted to the FAS along with other documents when applying for the FAS’s prior consent or when notifying the FAS of transactions or other actions, as required by the Competition Law.

The Order will come into force 10 days after its official publication.

## Foreign Citizens

**On 15 November 2006 the Government adopted Resolution No. 682 approving the 2007 quota for work permits for foreign citizens who do not need visas to enter Russia.**

Pursuant to Article 18.1 of the Law on Foreigners, which takes effect on 15 January 2007, the Government has set the 2007 quota at 6 million work permits for foreign citizens who enter Russia under the non-visa regime.

According to the Resolution, the Ministry of Public Health and Social Development in coordination with the Ministry of Economic Development and Trade, and the Ministry of Internal Affairs must apportion the quota among the Russian regions and foreigners’ countries of origin.

The Resolution will come into force on 15 January 2007.

**On 15 November 2006 the Government adopted Resolution No. 681 approving the Rules for issuing permits for the temporary employment of foreign citizens in Russia.**

Pursuant to Article 18 of the Law on Foreigners, the Government has approved Rules for issuing permits required for the temporary employment of foreign citizens in Russia. Such permits include: (i) foreign labor permits for employers of foreign citizens; (ii) work permits for foreign citizens and stateless persons who need visas to enter Russia; and (iii) work permits for foreign citizens and stateless persons who enter Russia under the non-visa regime.

The work permits are limited by the annual quotas set by the Russian Government for foreign citizen invitations and for work permits for foreign citizens who enter Russia on the non-visa regime. The Government has set these quotas for 2007 in its Resolution No. 665, dated 11 November 2006, and Resolution No. 682, dated 15 November 2006, as discussed above.

Under the Resolution, foreign labor permits and work permits issued before the Resolution was adopted are valid until the end of their term. The Resolution will come into force on 15 January 2007 and will invalidate Government Resolution No. 941, dated 30 December 2002, regarding the same matter.

**On 15 November 2006 the Government adopted Resolution No. 683 approving the permissible proportion of foreign workers that may be employed in retail sales in Russia in 2007.**

Pursuant to Article 18.1 of the Law on Foreigners, which takes effect on 15 January 2007, the Government may establish an annual authorized proportion of foreign workers that can be employed in a specific area of the economy in a specific region, or nationwide.

The Resolution sets forth the 2007 authorized proportion of foreign workers that can be employed in retail sale in Russia, including retail sale: (i) of alcoholic beverages, (including beer); (ii) of pharmaceuticals; (iii) at the stalls and markets; and (iv) outdoor retail sale.

Under the Resolution, foreigners are not allowed to be engaged in the retail sale of alcoholic beverages or pharmaceuticals throughout 2007. They may not be employed at stalls and markets or in outdoor retail sale from 1 April 2007 to the end of 2007. In the period from 15 January 2007 to 1 April 2007, the proportion of foreign employees at stalls and markets and in outdoor retail sale cannot exceed 40 percent of all the workers employed in the respective areas.

The Resolution will come into force on 15 January 2007. □