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# NIS EXPORT CONTROL Observer

## ОБОЗРЕНИЕ ЭКСПОРТНОГО КОНТРОЛЯ

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## Recent Developments in the NIS

### Export Control Law Adopted in Uzbekistan

On August 26, 2004, the Oliy Mazhlis (parliament) of the Republic of Uzbekistan adopted the law *On Export Control* on the second reading and issued a decree bringing it into force.[1] Since the previous, April 2004 session of the Oliy Mazhlis, when the parliament voted for the draft law introduced by the Cabinet of Ministers on the first reading, the document has been under interagency and expert review. As a result, the draft was revised to specify duties of the authorized governmental export control body and to increase the responsibilities of exporters.[2]

According to Mukhammadzhon Umaraliyev, chairman of the Oliy Mazhlis committee on economic reform and entrepreneurship, who presented the law for the second reading, the law *On Export Control* was prepared based on export control practices and legislation of the European Union, Japan, Russia, and the United States. The law provides for the establishment of the licensing procedure for exports of items subject to export control, including goods, equipment, scientific and technical information, activities, services, and intellectual property that can be used to produce WMD, means of their delivery, and other types of weapons and military hardware. The law also commits producers and exporters of such items to introduce internal compliance programs.[1,2]

Sources: [1] "Informatsiya o pervom dne raboty pyatnadsyatoy sessii Oliy Mazhlisa Respubliki Uzbekistan vtorogo sozyva" [Information on the first day of work of the fifteenth session of the second Oliy Mazhlis of the Republic of Uzbekistan], Uza news agency, August 26, 2004, <<http://www.uznews.com/politics/?id1=1559>>. [2] Pulat Daniyarov, "Eksportnyy kontrol radi bezopasnosti" [Export control for the sake of security], *Narodnoye slovo*, August 14, 2004, No. 165; in "M. Umaraliyev (glava komiteta Parlamenta) – Zachem Uzbekistanu zakon 'Ob eksportnom kontrole'" [M. Umaraliyev (chairman of the Parliament committee): Why Uzbekistan needs the law *On Export Control*], TsentrAsia website, August 17, 2004, <<http://www.centrasia.ru/newsA.php4?st=1092720600>>.

### Kyrgyz President Signs New Customs Code

On July 12, 2004, Kyrgyz President Askar Akayev signed the Customs Code of the Kyrgyz Republic and the law *On Bringing into Force the Customs Code of the Kyrgyz Republic*. The new customs code defines legal, economic, and organizational aspects of customs affairs and regulates procedures for the movement of goods and vehicles through Kyrgyzstan's borders. The law sets the date on which the code will come into effect—January 1, 2005, and declares all other customs laws void.

Source: "Prezident Kyrgyzskoy Respubliki A. Akayev 12 iyulya 2004 goda podpisal Tamozhenny kodeks Kyrgyzskoy Respubliki i Zakon Kyrgyzskoy Respubliki 'O vvedenii v deystviye Tamozhennogo kodeksa Kyrgyzskoy Respubliki'" [President of the Kyrgyz Republic A. Akayev on July 12, 2004 signed the Customs Code of the Kyrgyz Republic and the Law of the Kyrgyz Republic *On Bringing into Force the Customs Code of the Kyrgyz Republic*], July 13, 2004, President of the Kyrgyz Republic website, <<http://www.president.kg/press/news/1205/>>.

### Kazakhstani Customs Officials Visit South Korea

On May 24-28, 2004, a delegation of Kazakhstani customs officials headed by Berdibek Saparbayev, chairman of the Agency for Customs Control, visited South Korea to learn about the country's customs system. During talks between Saparbayev and his Korean counterpart, Kim Yong-Duk, head of the Korean Customs Service (KCS), the parties discussed the status of bilateral customs cooperation and prospects for future interaction in this field, including the organization of training sessions for Kazakhstani customs officers in South Korea and exchanges of personnel. The Kazakhstani officials also met with Shin Dong-Oh, president of KT Net (Korea Trade Network), to discuss the possible participation of his company in automating Kazakhstani customs processes.

The South Koreans demonstrated to the Kazakhstani officials advanced scanning technologies used during customs control to detect dangerous and sensitive cargoes, and the process of data transfer and information sharing between regional customs posts with the central KCS control desk. The hosts organized tours of the customs dog-training center as well as of Incheon International Airport and Incheon Seaport to familiarize Kazakhstani guests with customs procedures at these locations.

Source: "V Yuzhnoy Koreye obsuzhdeny perspektivy kazakhstansko-koreyskogo sotrudnichestva v oblasti tamozhennogo kontrolya" [Prospects for Kazakhstani-Korean cooperation in the sphere of customs control were discussed in South Korea], Ministry of Foreign Affairs of the Republic of Kazakhstan weekly press release, June 16, 2004, <<http://www.mfa.kz/rus/index.php?page=2&arch=1&selected=96>>.

## **New Licensing Agency Created in Russia**

*by Elina Kirichenko, Director of the IMEMO Center for North American Studies, Moscow*

In a period of just over two weeks, President Putin signed two edicts affecting the national system of export control in Russia.

On August 16, 2004, Putin signed the long-awaited Edict No. 1085, which approved the *Statute of the Federal Technical and Export Control Service (FTECS)*—Russia's new licensing agency. In accordance with the statute, the FTECS is subordinate to the Ministry of Defense, and the president himself will supervise FTECS activities. The statute provides for the creation of an FTECS board composed of heads of federal executive authorities, state agencies, and organizations in accordance with a list to be approved by the president as advised by the minister of defense. FTECS board members will be approved by the Cabinet of Ministers.

On July 28, 2004, Sergey Grigorov was appointed FTECS director by Presidential Edict No. 968. Before the March 2004 Russian government restructuring, Grigorov served as chairman of the State Technical Commission responsible for inter-industry coordination and functional regulation of activities directed at ensuring the protection of information classified as state or official secrets. Now that the FTECS statute has been approved, the FTECS director can make personnel arrangements, specifically, move specialists from the former Department of Export Control of the Ministry of Economic Development and Trade (MEDT) to the FTECS. In the absence of a full-fledged FTECS, the MEDT Department of Export Control still deals with the licensing process.

As stated in the statute, the most important FTECS responsibilities are technical counterintelligence and technical protection of information and state secrets. It is no coincidence that the person who was once in charge of those tasks will now head the FTECS. However, export control is also one of the main responsibilities of FTECS. One of Grigorov's three deputies, to be appointed by the president, will be responsible for export control issues. [*Editor's Note: No edicts on their appointment were issued at the time this article was written.*]

According to the statute, FTECS export control responsibilities are defined as follows:

- to ensure the implementation of export controls in accordance with Russian legislation and orders from the Ministry of Defense;
- to develop with the participation of relevant federal executive agencies and organizations, as established by law, drafts of lists (registers) of goods (activities, services), information, and intellectual property subject to export control;
- to organize and conduct, as established by law, the state examination of foreign economic transactions with regard to commodities that can be used to produce WMD, means of their delivery, other types of weapons and military hardware;
- to participate in the implementation of government policy on the nonproliferation of WMD and other dangerous types of weapons as well as on the export control of commodities that can be used to produce WMD, means of their delivery, other types of weapons and military hardware;
- to organize with the participation of interested federal executive agencies and organizations the creation of an integrated federal export control information system and an information sharing procedure between the FTECS and other state agencies;
- to ensure, within its jurisdiction, the participation of the Russian Federation in international export control regimes;
- to carry out activities aimed at the prevention of violations of Russia's export control legislation and relevant international commitments;
- to organize activities to raise the awareness among Russian exporters and importers of export control objectives, procedures, and regulations;
- to participate in the consideration of issues of trade and scientific-technical cooperation of Russia with foreign states as related to the implementation of export control;
- to organize in accordance with Russian legislation the state accreditation of organizations that implement internal compliance programs, and issue state accreditation certificates;

- to carry out, within its jurisdiction, the non-tariff regulation of foreign trade activity, including the issuance of licenses for exports and (or) imports of goods (activities, services), information, and intellectual property in instances specified in the Russian legislation;
- to determine the accounting order and form for foreign economic transactions for the purpose of export control;
- to participate in the preparation and implementation of activities on the harmonization and unification of national export control legislation of CIS member states and Eurasian Economic Community member-states on the basis of generally recognized principles and rules of international law;
- to participate in the consideration of issues related to Russia's joining in international economic sanctions against one state or a number of states;
- to issue rulings on the application of non-tariff regulation measures in the course of foreign economic activities;
- to maintain the federal database on issued export and import licenses for commodities subject to export control;
- to participate in activities directed at the prevention of unauthorized re-export from the Russian Federation of dual-use goods imported to the Russian Federation under the government guarantee of their usage for declared purposes, and issue Russian import certificates, as established by law;
- to supervise the independent identification of goods and technologies and control over its execution, and maintain a register of organizations that receive special permission for conducting such examination;
- to carry out, within its jurisdiction, international cooperation, and participate in activities on international information exchange as well as in the development and implementation of international cooperative programs in information protection and export control.

All above-mentioned FTECS responsibilities are similar to those of the former MEDT Department of Export Control. The Russian government has been given three months to bring its regulations into compliance with Edict No. 1085.

## Changes in NIS Export Control Personnel

### President Kuchma Appoints New Deputy Chief of Ukrainian Customs

On June 5, 2004, President Leonid Kuchma signed an edict appointing Taras Kozak, who previously served as deputy chief of the Lviv Oblast State Tax Administration, as deputy chief of the State Customs Service of Ukraine. 32-year old Kozak also retained his position as head of the Western Regional Customs. To make this possible, Kuchma amended Edict No. 214 of March 13, 2003.[1,2,3,4]

Sources: [1] "Prezident Ukrainy naznachil Tarasa Kozaka zamestitelem Glavy Gosudarstvennoy tamozhennoy sluzhby Ukrainy – nachalnikom Zapadnoy regionalnoy tamozhni" [The president of Ukraine appointed Taras Kozak deputy chief of the State Customs Service of Ukraine—and head of the Western Regional Customs], President of Ukraine website, June 5, 2004, <<http://www.president.gov.ua/rus/activity/ukazrozpor/assignment/259102836.html>>. [2] "Prezident naznachil glavu Gostamozhsluzhby" [The president appoints head of State Customs Service], forUm news agency, June 5, 2004; in Integrum Techno, <<http://www.integrum.com>>. [3] "Kozak Taras Romanovich," Open Ukraine website, <<http://www.kozaktaras.openua.net/>>. [4] "Naznachen novyy rukovoditel Zapadnoy regionalnoy tamozhni" [New head of Western Regional Customs is appointed], Reporter news agency, April 22, 2003, <[http://www.ua-reporter.com/hot/hot23\\_04\\_03.html](http://www.ua-reporter.com/hot/hot23_04_03.html)>.

### New Customs Head Appointed in Russia

On July 6, 2004, Russian Prime Minister Mikhail Fradkov signed Directive No. 919-r appointing 54-year old Aleksandr Zherikhov chief of the Federal Customs Service (FCS), a new agency under the Ministry for Economic Development and Trade (MEDT) created to succeed the State Customs Committee (SCC) as part of recent government reforms.[1,2] Zherikhov filled one of the last remaining vacancies in the new Russian government and replaced Mikhail Vanin, SCC chairman. Some analysts say that Vanin lost his position both because he was regarded as a member of former Prime Minister Mikhail Kasyanov's team and due to his opposition to the subordination of the customs service to the MEDT.[3,4,5] The appointment of Zherikhov, who is a career customs officer and does not belong to Russian President Vladimir Putin's St. Petersburg team, came as a surprise.[3,5] There had been speculation that Nikolay Volobuyev, a former

high-ranking counterintelligence officer at the Federal Security Service, who was appointed SCC deputy chairman in early June 2004, would become the FCS head.[2,4,6]

Aleksandr Zherikhov was born in 1950, in Vladimir Oblast. In 1987-1991, he worked for the Soviet Ministry of Foreign Affairs and served as second secretary at the Soviet Embassy in Eastern Germany and later in the united Germany.[5,7] He has been working at the SCC since March 1991, working his way up from head of a customs post, to deputy head of the Moscow Railroad Customs Service, head of the Moscow Highway Customs Service, and deputy head of the Moscow Customs Administration. In March 2002, he became head of the Central Customs Administration and joined the board of the State Customs Committee. On December 16, 2003, he was appointed SCC deputy chairman.[3,5,6,7] Aleksey Kaulbars, whom Zherikhov replaced as SCC deputy chairman, has characterized him as a “real professional.”[3]

Sources: [1] Directive No. 919-r of July 6, 2004, “O rukovoditele Federalnoy tamozhennoy sluzhby” [On the head of the Federal Customs Service], Government of the Russian Federation website, July 8, 2004, <[http://www.government.ru/data/news\\_text.html?he\\_id=103&news\\_id=14838](http://www.government.ru/data/news_text.html?he_id=103&news_id=14838)>. [2] “Personnel Changes in Russian Arms Trade and Customs Agencies,” *NIS Export Control Observer*, June 2003, No. 17, pp. 3-4, <<http://www.cns.miis.edu/nis-excon>>. [3] Vadim Visloguzov, “Kadry” [Personnel], *Kommersant*, July 7, 2004, No. 121; in Integrum Techno, <<http://www.integrum.com>>. [4] Irina Mokrousova, “Tamozhnyu podelili” [Customs has been divided], *Gazeta.ru*, July 8, 2004, <[http://www.gazeta.ru/2004/07/07/oa\\_126355.shtml](http://www.gazeta.ru/2004/07/07/oa_126355.shtml)>. [5] Sergey Gerasimenko, “Putinskaya ‘chistka’ doshla do tamozhni” [Putin’s clean-up reached customs], *Komsomolskaya pravda*, July 10, 2004, No. 128; in Integrum Techno, <<http://www.integrum.com>>. [6] Andrey Litvinov, “Tamozhnyu otdali tamozhenniku, a ne generalu FSB” [Customs has been given to a customs officer, not an FSB general], *Gazeta*, July 7, 2004, No. 120; in Integrum Techno, <<http://www.integrum.com>>. [7] Tatyana Rybakova, “Glavnyy tamozhennik nachinal so sborki pulemetov” [Chief customs officer started with assembling machine-guns], *Izvestiya*, July 8, 2004, No. 121; in Integrum Techno, <<http://www.integrum.com>>.

## International Supplier Regimes

### Australia Group Welcomes New Members, Expands List of Controlled Pathogens

At its plenary meeting of June 7-10, 2004, held in Paris, the Australia Group (AG)—an informal network of countries that coordinate their national export controls on dual-use items that could be used to create chemical or biological weapons (CBW)—welcomed five new members and agreed to expand its list of controlled pathogens.

The five new members—Estonia, Latvia, Lithuania, Malta, and Slovenia—bring the number of participating states to 38. Estonia, Latvia, and Lithuania are the only former Soviet republics to have joined the AG to date.

Participants at the 2004 plenary agreed to add five plant pathogens to the AG control list of materials that could be diverted to BW programs. (The updated AG List of Plant Pathogens for Export Controls may be found at <[http://www.australiagroup.net/en/control\\_list/plants.htm](http://www.australiagroup.net/en/control_list/plants.htm)>.) Participants also proposed consideration of further additions to the lists, including airborne spraying and fogging systems capable of dispersing biological agents in aerosol form.

Against the backdrop of increasingly sophisticated WMD procurement activities, such as the Khan nuclear proliferation network, AG plenary participants agreed to consider controls on brokers in order to curtail the proliferation activities of intermediaries and front companies. Participants also agreed on strategies to help non-AG-member supplier and transshipping countries, and other interested countries, to strengthen their national CBW export controls. The next AG plenary meeting will be held in Australia in 2005.[1,2]

Sources: [1] “Media Release: 2004 Australia Group Plenary,” Australia Group website, <[http://www.australiagroup.net/en/releases/press\\_2004\\_06.htm](http://www.australiagroup.net/en/releases/press_2004_06.htm)>. [2] “Australia Group Expands to Combat Chemical and Biological Weapons Proliferation,” Australian Ministry of Foreign Affairs website, June 16, 2004, <[http://www.foreignminister.gov.au/releases/2004/fa084\\_04.html](http://www.foreignminister.gov.au/releases/2004/fa084_04.html)>.

## Embargoes and Sanctions Regimes

### Russian Firm Cited for Violating Export Controls on Missile Technology

On July 16, 2004, Susan F. Burk, acting U.S. Assistant Secretary of State for Nonproliferation, released a notice declaring that sanctions would be imposed on Altay Federal Research and Production Center effective July 22, 2004. The reason given for the sanctions was that the Russian firm had “engaged in missile technology proliferation activities that require the imposition of the sanctions described in Section 73(a)(2)(A) of the Arms Export Control Act and Section 11B(b)(1)(B)(i) of the Export Administration Act of 1979.”[1] According to the firm’s public relations department, the source of this violation was a “contract for the fulfillment of an order for India.”[2]

Under terms of the sanctions, new individual licenses for exports to Altay of MTCR Annex equipment or technology controlled pursuant to the Export Administration Act of 1979 will be denied for two years; new licenses for export to Altay of Missile Technology Control Regime (MTCR) Annex equipment or technology controlled pursuant to the Arms Export Control Act will be denied for two years; and no new United States government contracts relating to MTCR Annex equipment or technology involving Altay will be entered into for two years.

Altay claimed that it had not received any formal documentation of any sanctions from the U.S. State Department and that it only learned of the sanctions from an Internet posting on the U.S. Federal Registry website. Firm managers released a statement on July 26 stressing that, “Altay is carrying out its external economic activity in strict compliance with Russian legislation. At present, the enterprise is working under contracts with many countries, including NATO members, for research and development of solid fuel sources of selective cold gases, such as nitrogen, oxygen, hydrogen, which are widely used in fire fighting, medicine, and technologies of production of super-dispersed diamonds for biomedical and technical applications.”[3] The company is currently in pre-contract negotiations with a number of U.S. and other foreign firms on the use of gun-powdered pressure generators for increasing oil and gas well output.

The Russian Foreign Ministry responded to the sanctions by declaring that its domestic firms’ cooperation with foreign entities is, “legitimate and is not subject either to Russian or to international limitations... with regard to introduction of these and other similar sanctions, we wish to stress that if the U.S. party considers that it is correct to limit its contacts with cutting-edge companies of the Russian military industrial complex, this is the choice of the U.S. itself.”[2] The sanctions against Altay come concurrently with U.S. disputes with Russia over the export of \$3 billion in arms, including the supply of 12 MiG-29 fighters to Sudan.

Sources: [1] U.S. Department of State Bureau of Nonproliferation, “Imposition of Missile Proliferation Sanctions Against a Russian Entity,” Public Notice 4771, Washington: GPO, 2004. [2] Aleksandr Babakin and Vladimir Ivanov, “Gosdep voyuyet s rossiyskimi oboronshchikami” [The U.S. State Department attacks the Russian military industrial complex], *Nezavisimoye Voyennoye Obozreniye* online edition, July 30, 2004, <[http://nvo.ng.ru/wars/2004-07-30/2\\_gosdep.html](http://nvo.ng.ru/wars/2004-07-30/2_gosdep.html)>. [3] Valentin Pavlov, “Rukovodstvo nauchno-proizvodstvennogo tsentra ‘Altay’ otvergayet obvineniya SShA v rasprostraneni raketnykh tekhnologiy” [Management of Altay research and production center denies U.S. accusations in the proliferation of missile technologies], ITAR-TASS, July 27, 2004; in Integrum Techno, <<http://www.integrum.com>>.

## Illicit Trafficking in the NIS

### Incidents Involving Orphan Radioactive Sources in Russia

In late May 2004, the radiation emergency rescue service of Radon, a state enterprise responsible for disposal of radioactive waste, seized several radioactive items. The first case took place in Stupino, Moscow Oblast, where Radon personnel discovered a steel crate and piping contaminated with radionuclides in trucks carrying scrap metal. A second incident involved a box with about 10 smoke detectors containing innocuous amounts of plutonium-238 that were found in the Vostochnyy administrative district of Moscow. Radon specialists removed the radioactive objects for disposal. The local police launched an investigation to establish the origin of the hazardous items.[1,2] *[Editor’s Note: Smoke detectors contain minuscule amounts of radioactive materials. Millions of smoke detectors would be needed to have enough radioactive material for a potent radiological dispersal device, or “dirty bomb.”]*

Another incident took place in Grozny, capital of Russia's Chechen Republic. On June 7, 2004, republican Ministry of Internal Affairs operatives found a metal container marked with a radioactive warning sign, while seizing an arms cache in an abandoned house in that city. Radiation readings indicate that these radioactive items might not pose a significant safety or security threat. However, if the container used large amounts of shielding, the container could previously have held potent amounts of radioactive materials. The external radiation reading by itself will not definitely determine the amount of radioactivity inside the container, leaving considerable uncertainty about the nature of the contents, which were not located. A police investigation is underway. It was suggested that the container could have been stolen from the radioactive waste burial site near Grozny. According to Imran Bichuyev, radiation protection inspector at Radon, orphan radiation sources found in Chechnya are placed in a temporary storage site near Tolstoy-Yurt settlement for up to six months. After 15-20 such sources are accumulated, they are transferred to the Saratov division of Radon for permanent burial. Bichuyev mentioned that 12 radioactive sources were lost during the Chechen wars, but Radon lacks money and equipment to conduct a search.[3,4]

More recently, in mid-July 2004, several teenagers found six smoke detectors reportedly containing one millicurie of plutonium-239 at a dumpsite in Kyshtym, Chelyabinsk Oblast. One of them brought the devices home and took one detector apart in search of non-ferrous metal. After noticing a radioactive warning sign on the detector, his father alerted the police. During a subsequent search of the teenager's house and of the dumpsite, the police and emergency officers found another 16 smoke detectors. According to some press reports, the detectors were manufactured at Mayak in 1981. However, Yevgeniy Ryzhov, head of Mayak's public relations department, said that Mayak does not produce such detectors and that it only supplies the radioactive isotope inside them to detector manufacturers. He did not specify what radioactive isotope was involved.[5,6,7] According to Eleonora Kravtsova, Chelyabinsk Oblast deputy chief state sanitary inspector, any enterprise could have left the radioactive detectors at the dumpsite to avoid disposal costs: such devices should be sent to Radon. However, in 2002, Oblast Governor Petr Sumin issued a decree allowing the disposal of such items at the oblast budget expense. Kravtsova believes that not every enterprise is aware of this decree. Chelyabinsk Oblast chief state sanitary inspector Aleksandr Gavrilov recommended that the Kyshtym authorities conduct a full-scale search for orphan smoke detectors at all local dumpsites.[7,8]

Sources: [1] "Sotrudniki GUP MosNPO 'Radon' izyali na territorii Moskvy i Moskovskoy oblasti neskolko radioaktivnykh predmetov" [Radon officers seized several radioactive objects in Moscow and Moscow Oblast], RIA Novosti; in Radon-Press environmental news agency, May 31, 2004, <[http://www.eco-news.ru/cgi-bin/index.pl?State=PR&mm=musmedia&year\\_=2004&mon=05&id=682](http://www.eco-news.ru/cgi-bin/index.pl?State=PR&mm=musmedia&year_=2004&mon=05&id=682)>. [2] "Metallicheskiye konstruktssii s priznakami radionuklidnogo zarazheniya obnaruzheny v podmoskovnom Stupino" [Metal construction with radioactive markings found in Stupino], ITAR-TASS, May 31, 2004; in Integrum Techno Database, <<http://www.integrum.com>>. [3] Petr Ivanov, "Chechnya opyat zasvetilas" [Chechnya glows again], *Rossiyskaya gazeta*, June 10, 2004, No. 121 (3498); in Integrum Techno Database, <<http://www.integrum.com>>. [4] Experts' comment on the *Rossiyskaya gazeta* article prepared by K. Sadulayeva and M. Dinayeva, *Stolitsa plyus* (Groznyy), June 30, 2004; No. 51; in Integrum Techno Database, <<http://www.integrum.com>>. [5] Aleksandr Perestoronin, "V Chelyabinskoy oblasti naydeny beskhoznyye datchiki, sodержashchiye radioaktivnyy plutoniy" (Orphan detectors filled with radioactive plutonium were discovered in Chelyabinsk Oblast), RIA Novosti, July 19, 2004; in Integrum Techno, <<http://www.integrum.com>>. [6] Viktor Riskin, "Bomzhey uberegli ot oblucheniya" [Homeless were saved from radiation], *Chelyabinskiy rabochiy*, July 21, 2004; in Integrum Techno, <<http://www.integrum.com>>. [7] Oksana Lutkova, "Podrostok nashyol na kyshtym'skoy svalke 16 priborov, sodержashchikh plutoniy" (Teenager found 16 devices filled with plutonium at the Kyshtym dumpsite), UralPolit.Ru news agency, July 19, 2004, <<http://www.uralpolit.ru/chel/news/?art=6490>>. [8] "Opasnaya nakhodka" (Dangerous finding), Chelyabinsk Oblast Gossanepidnadzor website, July 19, 2004, <<http://www.ses.chel.ru/cgi/pvdnews/news.pl?offset=2&view=0>>.

## International Developments

### WCO Council Adopts New Resolution, Creates High Level Strategic Group

At the June 24-26, 2004, World Customs Organization (WCO) Council session in Brussels, WCO directors general adopted the *Resolution of the Customs Co-operation Council on Global Security and Facilitation Measures Concerning the International Trade Supply Chain*. [1] This resolution is a follow-up to the *Resolution on Security and Facilitation of the International Trade Supply Chain*, which was adopted in June 2002. [2] Taking into account the changing international trade environment and risks posed by terrorism and organized crime and to secure and facilitate legitimate trade and to promote economic security, the June 2004 resolution created a High Level Strategic Group, composed of a small, diverse group of the WCO directors general. [1,3]

This Group, which met for the first time on June 26, 2004, is to:

- provide leadership and guidance on enhancing the position of the WCO and national customs administrations on security and facilitation matters;
- build upon and consolidate the work of the WCO Task Force, composed of customs experts working in close collaboration with other stakeholders in international trade and tasked with developing common solutions designed to ensure targeted controls and to facilitate the movement of licit goods;
- prepare a WCO framework for the security and facilitation of global trade to be presented for the consideration of the WCO Policy Commission within 12 months;
- further develop the concept of integrated supply chain management and related customs matters;
- develop and define standards on integrated supply chain security and facilitation and related customs matters; and
- recommend capacity building measures and develop strategies to assist developing countries showing the political will to conform to the standards that will be set.

To achieve this final objective, the WCO Council agreed to establish a third directorate within the WCO Secretariat, with the responsibility for capacity building activities.[1,3]

The resolution also calls upon national customs services to commit themselves to implement WCO instruments relating to security and facilitation as early as possible; put into practice modern customs procedures and administrative measures, such as information and communication technology and risk management techniques, embodied in the revised Kyoto Convention; and promptly accede to the revised Kyoto Convention and to the Johannesburg Convention. According to the resolution, member states should also take urgent steps to develop an action plan to implement supply chain security and facilitation measures; mobilize key stakeholders to ensure that customs administrations play an essential role within an integrated government response towards supply chain security and facilitation measures; monitor and report to the WCO Secretariat on the progress being made towards implementation of supply chain security and facilitation measures; and maintain and ensure a high degree of good governance and integrity in their customs administrations.[1,3]

The WCO Policy Commission, at its December 2004 session, shall review the progress made with the implementation of this resolution by the WCO High Level Strategic Group, Secretariat and member states.[1]

Sources: [1] "Resolution of the Customs Co-operation Council on Global Security and Facilitation Measures Concerning the International Trade Supply Chain (June 2004)," WCO website, <<http://www.wcoomd.org/ie/En/en.html>>. [2] "Resolution on Security and Facilitation of the International Trade Supply Chain (June 2002)," WCO website, <[http://www.wcoomd.org/ie/En/Topics\\_Issues/topics\\_issues.html](http://www.wcoomd.org/ie/En/Topics_Issues/topics_issues.html)>. [3] "WCO Council Adopts Second Resolution on Security and Facilitation and Creates new High-Level Strategic Group," WCO press release, June 30, 2004, WCO website, <<http://www.wcoomd.org/ie/En/Press/press.html>>.

### **Marshall Islands, United States Sign Ship Boarding Agreement**

In a continued expansion of the Proliferation Security Initiative (PSI), the Republic of the Marshall Islands and the United States signed a ship boarding agreement that provides reciprocal authority to board vessels suspected of carrying illicit shipments of WMD, their delivery systems, or related materials. The Ship Boarding Agreement was signed on August 13, 2004, for the Marshall Islands by Foreign Minister Garald Zackios and for the United States by Deputy Assistant Secretary of State for East Asian and Pacific Affairs Randy Schriver.

The Marshall Islands is the third state to sign a PSI Ship Boarding Agreement with the United States; Liberia signed the first on February 11, 2004, followed by Panama on May 12, 2004. More than 50% of global commercial shipping—ships registered in Panama, Liberia, the Marshall Islands, and PSI core partner countries—are now subject to PSI procedures for boarding, search, and seizure.

Source: "The United States and the Republic of the Marshall Islands Proliferation Security Initiative Shipboarding Agreement," U.S. Department of State fact sheet, August 14, 2004, U.S. Department of State website, <<http://www.state.gov/r/pa/prs/ps/2004/35236pf.htm>>.

## Special Report

### Russian Government Reorganizes, Restructures Nuclear Agencies

by Cristina Chuen, Senior Research Associate, CNS

Since February 2004, when President Putin dismissed top Cabinet officials shortly before the Russian presidential elections, the Russian government has been undergoing major reforms. Top Cabinet personnel, the organizational structure, and responsibilities of key offices have changed. The reforms, which have affected the entire government, including the former Ministry of Atomic Energy and the Federal Inspectorate for Nuclear and Radiation Safety (Gosatombdзор), have not yet been completed. The political infighting to influence the reforms and uncertainty regarding future political roles, however, has held up projects in various ministries, including international nonproliferation assistance programs. The government statutes defining the roles, powers, and structures of the new administrative bodies are now being issued, providing a basic outline for the new shape of the Russian executive.

#### March 9, 2004: Reforming the System of Ministries, Agencies, and Services

With an aim to reduce wasteful activities and duplication, Dmitriy Kozak, who had become first deputy chief of the presidential administration in November 2003 and was Putin's campaign manager during the recent election,[1] was given just a few weeks to reconfigure Russia's executive branch. He based the reorganization on the principle that "ministries" would have strategic responsibilities and draft legislation, "agencies" would organize the provision of government services, and "services" would be responsible for monitoring.[2] In essence, this created a system where ministries have the broadest powers, and services the least. This system was codified in presidential edict No. 314 of March 9, 2004, *On the System and Structure of Federal Organs of Executive Power*, which specified the powers and duties of ministries, agencies, and services. It also reduced the number of top Cabinet officials, giving the prime minister and the chief of the government staff just one deputy each. The March edict shrank the number of Russian ministries from 23 to 14, and the number of cabinet ministers from 30 to 17 (the prime minister, deputy prime minister, and chief of government staff have the rank of cabinet minister), with the prime minister having control of just nine ministries; this would be altered further two months later. Law enforcement and security agencies would henceforth report directly to the president. Under previous legislation, the prime minister monitored and coordinated the activities of all ministries (the latter task has now been transferred to Chief of the Government Staff Dmitriy Kozak).[3] Most provisions in the Putin decree came into force on the day of its publication; the few exceptions relate to ministers' new power to appoint their own deputies (previously a government prerogative, this requires the amendment of the federal law *On the Government of the Russian Federation*), and the reorganization of certain services, including the Customs Service, which require other changes in federal law.

The March 9 edict transformed the Ministry of Atomic Energy into an agency (the Federal Atomic Energy Agency, also known by its Russian acronym, FAAE) and the Federal Inspectorate for Nuclear and Radiation Safety into a service; they were also subordinated to the Ministry of Industry and Energy (this status would later be reconsidered). Some other ministries were similarly transformed into agencies or services, and many agencies changed into services. However, after the edict was issued, it became clear that some aspects of the reorganization were problematic. For instance, several monitoring bodies were subordinated to the very ministries they were meant to monitor. And several agencies, such as the FAAE and the Federal Space Agency, argued that their new status would make continued international cooperation difficult. Thus, when Putin finalized the government reorganization on May 20, 2004 he did not simply approve the March draft, but made several significant organizational changes.

#### May 20, 2004: Further Government Restructuring

The May 20 changes, which commentators believe were substantially influenced by Prime Minister Mikhail Fradkov, have been criticized by some Russian analysts as rejecting the fundamental principles upon which the March 2004 reforms were based: the division of strategic and legislating bodies (ministries) from those that execute policies or monitor their execution; this reform was intended to provide the prime minister the room to concentrate on strategic issues. Moreover, critics charged that the May 20 changes

failed to address conflicts of interest in several ministries. For instance, the services in charge of supervising natural resource use and the preservation of Russia's cultural heritage remain subordinated to the Ministry of Natural Resources and Ministry of Culture, often criticized as themselves the greatest law-breakers in these two areas.[2] However, the May 20 edict No. 649, *Questions of the Structure of Federal Organs of Executive Power*, which came into force on the date of its publication, did result in greater power not only for Fradkov (putting more government bodies under his direct control), but also for FAAE, and created a new Federal Service for Environmental, Technological, and Nuclear Oversight, pulling the Federal Nuclear Supervisory Service out of the Ministry of Industry and Energy but combining it with the services that supervise environmental and technical matters.

The government statutes (*polozheniye*) defining the roles, powers, and structures of the new administrative bodies are now being finalized, ushering in a new stage in Russia's reform of the executive. All relevant statutes were expected to be completed in July.[4] The government statute on the Ministry of Industry and Energy, as well as the Federal Industry Agency, which is subordinate to the Ministry of Industry and Energy, have been adopted, as has the statute governing FAAE. [*Editor's Note: Russian statutes must be enacted by presidential edict (ukaz) or government decree (postanovleniye) in order to become law.*] The Industry Agency has been designated the government body in charge of fulfilling Russia's obligations under the Chemical Weapons Convention and the Biological and Toxin Weapons Convention. Until the Russian government enacts legislation specifying the organizations under its purview, the Industry Agency has also been given authority over all organizations formerly under the Munitions, Conventional Weapons, Control Systems, Shipbuilding agencies, and the transformed Aviation and Space Agency.[5]

#### June 28, 2004: FAAE Loses Deputies, Gains Rights

The Russian government restructuring of March and May 2004 did not significantly change the responsibilities of the FAAE. There is just one stipulation in the presidential edict of March 9, 2004 that might have an impact on the agency: it is now officially under the jurisdiction of the Ministry of Defense as far as issues related to the nuclear weapons complex are concerned. The Ministry of Defense was always involved in these issues, but former Minister of Atomic Energy Viktor Mikhailov has opined that the new legal language may result in increased Ministry of Defense influence over the state defense order—the Ministry's requisition for nuclear weapons—in the nuclear weapons complex, with the funding for the state defense order coming via the Defense Ministry's new Federal Defense Order Service, rather than being transmitted directly to the FAAE, as was the case for Minatom. Finally, Mikhailov thought that the Defense Ministry might try to influence personnel appointments in the nuclear weapons complex.[6] In the civilian sphere, the agency remained in control of Rosenergoatom (the federal enterprise that runs the civilian nuclear power plants) and, according to former Minatom Department Head Nikolay Shingarev, has been given additional rights and opportunities in managing state shares in nuclear enterprises.[6] Government Statute No. 316 of June 28, on the Federal Atomic Energy Agency, furthermore, increases the agency's power over the nuclear supervisory agency and facility guard forces. It also reduces the number of deputy directors from eight to four, and changes the structure of the organization from 14 departments and 8 directorates to 16 directorates. The new statute also differs from the earlier government statute on the Ministry of Atomic Energy (adopted by Government Statute No. 392 of April 5, 1997, with alterations issued on March 5, 1998 and October 22, 1999) in the following ways:

- *Legislation:* The new statute granted the FAAE the right to submit proposed legislation to the government for consideration. This was a critical change, since the agency had lost that right when it lost the status of a Ministry in March 2004. In addition, the agency has been given the right independently to issue regulations over a wide range of activities within its newly expanded purview.
- *Safety and Security:* While the earlier statute made safety and security over the Russian nuclear complex one of Minatom's chief tasks, this has now been de-emphasized. Nevertheless, the legislation does provide the FAAE some new rights that may lead to improved facility security. The new statute continues to include articles related to physical protection, control, and accounting (MPC&A). In addition, it gives the agency the right not only to organize the protection of its facilities but also to issue rules regarding cooperation between its own security forces and

territorial security organs and Ministry of Interior troops. Earlier legislation in effect gave Minatom responsibility for facility security but no right to give any direction to other organizations providing security at Minatom sites. The new arrangement should create the basis for improved security at FAAE installations. The articles related to MPC&A have also been modified. The new statute states that the agency *independently* issues regulations regarding the control and accounting of Russian radioactive materials and radioactive waste; for conducting control and accounting of foreign-owned nuclear materials temporarily on Russian territory; and for regulating the transport of radioactive materials.

- *Oversight:* In the area of nuclear regulation, the new statute appears to weaken the power of the Russian Nuclear Supervisory Service, and increase that of the FAAE. Article 6, paragraph b in the 1997 statute required that Minatom provide necessary information on the activities of nuclear complex enterprises and organizations to the Russian government, the nuclear supervisory agency, other regulators, non-governmental organizations, mass media, and the public; Article 6, paragraph d of that statute also required that Minatom provide materials evaluating the influence of radiation on the environment near a nuclear installation, radiation source, or storage site for state environmental impact assessments. The new statute, however, gives the FAAE the right to issue regulations that delimit the functions of other federal bodies involved in environmental impact assessments and the adoption of preliminary design and project documentation. This appears to imply that the FAAE will have an important role in determining how much power the Federal Service for Environmental, Technological, and Nuclear Oversight will have to regulate nuclear installations. One more change in the new statute is the omission of the provision that had applied to Minatom, requiring that it consider industrial and environmental safety in choosing the sites for new nuclear complex facilities.
- *Conversion:* The previous statute mentioned enterprise conversion, whereby military enterprises become commercial entities, a half dozen times, while the term is not in evidence in the new legislation. The new statute, however, does mention that some state enterprises in the nuclear energy complex will be converted into joint stock companies and that the FAAE will issue regulations governing the issuance of licenses for the operation of these companies.
- *Nonproliferation and Disarmament:* Under the new statute, the FAAE continues to be a party to international agreements, cooperating with foreign governmental and international organizations consistent with the obligations undertaken by Minatom. The agency, for example, will continue to coordinate the dismantlement of Russian nuclear submarines and be a party to intergovernmental programs.

While the statute finally provides the basic outlines for the FAAE's work, this is only an intermediate step in the reform process. The agency will now have to formulate its own new conceptual principles and carry out internal reforms, converting 14 departments and eight directorates to 16 directorates. Twelve of the 16 new FAAE directorates are already known, as shown below:

### FAAE Directorates

Directorate	Head
Nuclear Materials Industry	Vladimir Kоротkevich, former head of the Nuclear Fuel Cycle Department
Design and Testing of Nuclear Warheads	Valeriy Drozdov
Nuclear Warheads Industry	
Nuclear Power Industry	
Budget Planning and State Procurement Orders	
Nuclear and Radiation Safety	
International and Foreign Economic Cooperation	Vladimir Kuchinov, who headed the International and Foreign Economic Cooperation Department under Minatom
Nuclear Science and Technology	Valeriy Rachkov, who was deputy head of Minatom's Nuclear Science and Engineering Department
Protection of Information, Nuclear Materials and Facilities	
Decommissioning of Nuclear and Radiation-Hazardous Facilities	Sergey Antipov, former Minatom Deputy Minister in charge of nuclear submarine dismantlement
Legal Support, Restructuring and Regulation of Ownership	
Construction of Nuclear Power and Industry Facilities	Vladimir Generalov, head of Minatom's Nuclear Power Engineering Department

While the posts of some FAAE personnel are known, others have been named without a particular post being specified. A full list of known personnel follows:

### FAAE Personnel as of July 2, 2004 [7]

Agency Director	Aleksandr Rummyantsev
Deputy Directors	Boris Yurlov, former Gazprom deputy director, first appointed to Minatom in April.[8] Evald Antipenko, former Minatom First Deputy Minister in charge of financial and economic issues. Ivan Kamenskikh, former Minatom Deputy Minister in charge of the nuclear weapons complex. Anatoliy Kotelnikov, former Minatom Deputy Minister in charge of security issues.
Directorate Heads	Sergey Antipov, former Minatom Deputy Minister in charge of nuclear submarine dismantlement. Vladimir Generalov, former head of the Nuclear Power Engineering Department. Valeriy Drozdov Vladimir Kоротkevich, former head of the Nuclear Fuel Cycle Department. Valeriy Kurbatov Vladimir Kuchinov, former head of the International and Foreign Economic Cooperation Department. Aleksandr Martyanov, former head of the Industry Economics and Planning Department. Valeriy Rachkov, former deputy head of the Nuclear Science and Engineering Department.

### July 1, 2004: Federal Service for Environmental, Technological, and Nuclear Oversight Gets Acting Head, Future Still Unclear

No legislation has yet been adopted concerning the roles, powers, or structure of the new Environmental, Technological, and Nuclear Oversight Service, so it is quite difficult to know what degree of freedom the nuclear inspectorate will be able to maintain. In late March 2004, Russian nuclear regulators noted that they were unsure of their status, and how independent they would be under the March 9 structure, which subordinated them to the Ministry of Industry and Energy. The May 20 edict, as already noted, brought the nuclear inspectorate out from under the ministry, but merged it with two other inspectorates. Until implementing legislation is issued, the inspectorate will continue to operate under the old rules. However, uncertainty over the future rules has raised concerns. In an interview with Russia's *Nezavisimaya gazeta*, U.S. Nuclear Regulatory Commission Chairman Nils Diaz emphasized the importance of a clear distribution of responsibilities between FAAE and the nuclear supervisory service, saying that his trip to Moscow for a conference of nuclear regulators on June 24-25 was in part to better acquaint himself with the situation.[9] The only legislation pertaining to the service to date concerns leadership: on July 1 Prime Minister Fradkov issued a directive naming Andrey Malyshev, former head of the Federal Inspectorate for Nuclear and Radiation Safety, deputy head of the new service, while on July 2 a second Fradkov directive appointed him acting head of the service.[10,11] Although the appointment was not permanent, it should ensure that the nuclear side of the inspectorate will be given sufficient attention during the transition period.

### Conclusion

To date, the greatest effect of current Russian government reforms has been political maneuvering over the course of reforms and difficulties getting work done as staffers are uncertain of their powers or responsibilities. There has yet to be a real downsizing of the executive branch. The original theory of the reformers, to clearly differentiate ministries from agencies and services, has already been altered in practice. This has had some positive and some negative consequences.

The March 9 subordination of the Ministry of Atomic Energy to the Ministry of Industry and Energy promised some increased supervision over the former, but might have made international cooperation more difficult. The new statute governing the FAAE has some welcome innovations, such as allowing the agency to issue rules regarding cooperation between its own security forces and territorial security organs and Internal Ministry troops. Previously, the agency had responsibility for facility protection but few tools to affect the work of other troops.

On the other hand, the agency has been given quite a few other powers without any clear oversight mechanisms in place. The March subordination of the nuclear supervisory body to the Ministry of Industry and Energy was particularly problematic, but it is not yet known whether the new Federal Service for Environmental, Technological and Nuclear Oversight will be able to truly oversee the nuclear sphere until the Russian government and the FAAE issue relevant legislation. The fact that the FAAE appears to have the right to take away nuclear inspectorate powers as the agency sees fit is most worrisome. Until relevant statutes have been approved and regulations issued, the governance of Russia's nuclear facilities will remain in flux, with the reforms monopolizing political attention. For information on the recent restructuring of other Russian government bodies, please see "The 2004 Russian Government Reforms," on the CNS website at <http://cns.miis.edu/pubs/week/040713.htm>.

Sources: [1] Boris Vishnevsky, "Dmitri Kozak," *Moscow News* MN-Files, <http://www.mosnews.com/mn-files/kozak.shtml>. [2] Yevgeniy Arsyukhin, "Ministry popali v Polozheniye" (Ministers come under a statute), *Rossiyskaya gazeta*, <http://www.rg.ru>, June 22, 2004; "Kreslo vsvlastiya" (Seat of ultimate power), *Vedomosti*, May 24, 2004; in Integrum Techno, <http://www.integrum.com>. [3] Russian Presidential Edict No. 867, *On the Structure of the Federal Bodies of Executive Power*, May 17, 2000; in *Rossiyskaya gazeta*, May 20, 2000; in Integrum Techno, <http://www.integrum.com>. [4] "Pravitelstvo v tselom odobriilo proyekty polozheniy o Minpromenergo" (The government generally approved the draft statute on the Ministry of Industry and Energy), *Novosti TEK*, June 10, 2004; in Integrum Techno, <http://www.integrum.com>. [5] Russian Government Decree No. 285, *Ob utverzhdenii Polozheniya o Federalnom agentstve po promyshlennosti* (On the confirmation of the Statute on the Federal Industry Agency), 16 June 2004; in *Rossiyskaya gazeta*, June 22, 2004, p. 13. [6] Aleksandr Yemelyanenko, "Atom be rasshcheplayayut" (Atom Not Being Split), *Rossiyskaya gazeta*, March 11, 2004; in Integrum Techno, <http://www.integrum.com>. [7] "O rasshirennoy zasedanii kollegii Federalnogo agentstva po atomnoy energii" (On the enlarged meeting of the Federal Atomic Energy Agency Collegium), Minatom Website, July 2, 2004, [www.minatom.ru](http://www.minatom.ru). [8] Alena Kornysheva, "Aleksandr Rummyantsev gotov k aktsionirovaniyu" (Aleksandr Rummyantsev is ready for corporatization), *Kommersant*, April 23, 2004; in Integrum Techno, <http://www.integrum.com>. [9] Andrey Vaganov, "V Moskve sobirayetsya 'yadernaya vosmerka'" [Nuclear Eight to Meet in Moscow], *Nezavisimaya gazeta*, June 24, 2004; in Integrum Techno, <http://www.integrum.com>. [10] Russian Federation Government Directive No. 904-r of July 1, 2004, *On the Deputy Director of the Federal Service for Environmental, Technological,*

and Nuclear Oversight, Rossiyskaya gazeta, <<http://www.rg.ru/2004/07/06/zam-doc.html>>, July 6, 2004. [11] Russian Federation Government Directive No. 905-r of July 2, 2004, *On the Acting Director of the Federal Service for Environmental, Technological, and Nuclear Oversight, Rossiyskaya gazeta*, <<http://www.rg.ru/2004/07/06/a31019.html>>.

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