



**Alexey Zernov**

Alexey Zernov was born on January 15<sup>th</sup>, 1958 in Termez (Uzbekistan, USSR). Since 2002 he has been an expert for issues of customs and tariffs as well as international customs law of the Committee on Budget and Taxes of the State Duma of the Russian Federation. He is also a Deputy Chairman of the Kaliningrad Scientific Society. He is married and has three children.



**Konstantin Shopin**

Konstantin Shopin was born on June 18<sup>th</sup>, 1979 in the Kaliningrad Region. He is educated as an economist and has completed internships with the UN Fund for International Partnerships and the Council of Europe and participated in a number of EU-Russia cooperation projects.

## **KALININGRAD TRANSIT OF GOODS: IN NEED FOR A STRATEGIC APPROACH TO PROBLEM-SOLVING**

The introduction of the new procedures for the Kaliningrad transit of goods following Lithuania's accession to the EU on May 1, 2004 has had a negative impact on the conditions of freight transport between the Kaliningrad Oblast and Russia's mainland. This has resulted in the fact that both time and financial losses related to transit transport of goods through Lithuania's territory have been increased for Russian carriers. Complication of freight transit has led to an increased uncertainty of prospects of life-support and social-and-economic development of the Russian exclave as well as to a drop in investment attractiveness of the local economy.

In this paper the authors attempted to analyse major effects of changed rules and procedures of customs, veterinary and phytosanitary control, as well as gave their assessment to the role and place of the issue of the Kaliningrad transit of goods in a strategic context of EU-Russian relations.

The main conclusion of the research carried out is in the fact, that the situation emerged should not be approached as a problem of inconsistency between the Russian and EU legislation, but rather as a factor urging development of common for Russia and EU rules and procedures of customs transit in line with the road-map for the Common Economic Space. The Kaliningrad Oblast could play a role of a pilot region in this process.

Authors believe that in order to solve the problem in a short-term perspective, Russia and the European Union have not just substantial economic interests related with development of practical co-operation in the transport field, but a sufficient agreement and legal basis as well. The parties only should make additional efforts on implementation of already reached political arrangements.



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## EXECUTIVE SUMMARY

The introduction of the new procedures for the Kaliningrad transit of goods following Lithuania's accession to the EU on May 1, 2004 has had a negative impact on the conditions of freight transport between the Kaliningrad Oblast and Russia's mainland. Particularly, the list of control procedures and obligatory documents has been extended, a number of rules and requirements have been complicated, and the amounts of various fees have been increased. This has resulted in the fact that both time and financial losses related to transit transport of goods through Lithuania's territory have been increased for Russian carriers. In addition to that some new regulations have produced specific negative impacts. For instance, such as the prohibition to carry live animals for agricultural purposes. Another example is a problem related to enhanced requirements of phytosanitary control, which have become an obstacle for provision of raw materials to pulp-and-paper productions in the Kaliningrad Oblast, a traditional sector of local industrial production.

The introduction of new rules and procedures for the Kaliningrad transit of goods was stipulated by harmonisation of Lithuanian legislation with the principles of the Common Transit Procedure of the European Union. As a result, the conditions of freight transport of goods between the Kaliningrad Oblast and mainland Russia have been equated to rules of the international transit. At the same time, one could talk of a virtual emergence of a certain business segment comprising a whole range of Lithuanian commercial (insurance and brokerage) companies profiting on servicing the flow of transit goods. No doubt such an approach takes no account of a special, acknowledged both by Russia and the EU, geopolitical situation of the Kaliningrad Oblast, and places it in conditions of social and economic development which are less favourable compared to other subjects of the Russian Federation. Besides that, in view of the possibility of a regular revision of transit rules and procedures by the Lithua-

nian Republic (EU), uncertainty of prospects of life-support of the Kaliningrad Oblast has sharply increased, while business and investment attractiveness of its economy has dropped.

The fact that worsening of rules and procedures for the Kaliningrad transit of goods have taken place despite an agreement reached at the top level between Russia and the EU that Lithuanian Republic's accession to the European Union will not have negative impact on the conditions of transit of goods between the Russia's exclave and it's mainland, draws especial attention.

One of possible solutions to this problem, which actually was considered in the course of discussions of the issue associated with freight transit, could be to enable a wide practical use of the automatised system, developed specifically for Kaliningrad and compatible with the New Computerised Transit System (NCTS) of the EU, titled the 'Kaliningrad Transit'. So far, however, the customs services of Russia and Lithuania have not been able to make it fully operational due to a number of technical problems. These, first of all, relate to the necessity for a Russian carrier to produce a financial guarantee by an insurance company, registered in an EU member-state, which may only be done at the Lithuanian border.

The main conclusion of the research carried out is in the fact that an optimal and a long-term solution to the problem of the Kaliningrad transit of goods may be found if the parties managed to switch from discussion of technicalities to consideration of opportunities related with using Kaliningrad as a pilot region of EU-Russia relations. Essentially, this implies development and testing of such harmonised rules and procedures of freight transit that will not just facilitate creation of favourable conditions for the development of the Kaliningrad Oblast, but will give an impetus to accelerated establishment of the Common Economic Space between Russia and the European Union on the whole.

## Summary of Recommendations

### THE RUSSIAN FEDERATION

- Co-ordination of efforts of all public authorities interested and involved in solving of the problems associated with the Kaliningrad transit of goods should be improved;
- The electronic transit scheme, which simplifies and facilitates the Kaliningrad transit of goods should be advocated and an initiative aiming to remove obstacles for operating the “Kaliningrad Transit” automated system should be proposed to Lithuania ;
- Efforts should be taken in order to eliminate customs formalities on paper for Russian domestic goods and necessitated services of customs brokers on the Russian side;
- Clarification of the appropriateness of application of specific norms, which complicate the procedures for the Kaliningrad transit of goods should be requested;
- Measures aimed at mutual harmonisation of the rules and procedures of customs transit, particularly those related to concluding an agreement on equivalence of certificates and reduced frequency of checks should be developed and proposed to the European side.

### THE EUROPEAN UNION

- To consider possibility of simplification of the rules and procedures for the Kaliningrad transit of goods, as well as of bilateral harmonisation of the rules and procedures of customs transit with the Russian Federation;
- Awareness of the Russian carriers regarding the procedures for freight transit should be raised;
- Correspondence between Lithuanian legislation regulating customs transit procedures and EU norms should be monitored.

### THE LITHUANIAN REPUBLIC

- A mutually agreed order of informing the Russian side of expected changes in provisions regulating the procedures for customs transit and affecting the conditions of the Kaliningrad transit of goods should be proposed;
- The existing procedures based on the Agreement on International Freight Communication (AIFC) for the railway conveyance of goods should be maintained;
- Efforts should be taken to review the established fees for phytosanitary and veterinary control in order to consider reducing them.



*Kaliningrad transit of goods: border-crossing points on the Russian-Lithuanian and Belarusian-Lithuanian borders*

## BACKGROUND

Following the dissolution of the Soviet Union in 1991, the Kaliningrad Oblast became Russia's exclave in the Baltic Sea Region and found itself in specific conditions of socio-economic development.

The region's dependence on conditions of transit determined by foreign states became one of serious negative factors. Before Lithuania's accession to the European Union, procedures for the Kaliningrad transit of goods regulated by Lithuanian national legislation were relatively simple: simplified forms of control were applied, the procedures were not financially burdensome, or partially – free of charge for Russian carriers.

In light of pending Lithuania's accession to the EU, in 2002 negotiations were launched to review procedures for both passenger and cargo transit. The parties concerned, Russia, the EU, and Lithuania managed to achieve a compromise solution on organisation of the passenger transit. These arrangements, although required considerable efforts, and even a partial review of the Schengen system, were based on understanding of the unique geopolitical situation of the Kaliningrad Oblast and did not inflict on the interests of Lithuania and the European Union. When searching for a solution to the Kaliningrad transit of goods, the EU and Russia initially declared the same approach. This was noted in the Joint Statement on Transit between the Kaliningrad Oblast and the Rest of the Russian Federation signed at the 10<sup>th</sup> EU-Rus-

sia summit in Brussels on November 11, 2002. The document reads that “the parties acknowledge the unique situation of the Kaliningrad Oblast as part of the Russian Federation but separated from the rest of the Federation by other states. With the aim of further developing the strategic partnership between the EU and Russia, the parties therefore agree to make a *special* effort to *accommodate the concerns on both* sides related to the *future transit* of persons and *goods* between the Kaliningrad Oblast and other parts of Russia...”<sup>2</sup>

Following the trip of the President of Russia Mr. Putin to Kaliningrad in the summer of 2003, the Russian Government was commissioned to intensify negotiations with the European Union, as well as candidate-countries concerned in order to elaborate the transit procedure based on the agreement reached with the EU.

In order to practically realise the arrangement on simplified procedures for the Kaliningrad transit of goods, the Russian Federal Customs Service developed an automated electronic system, titled “Kaliningrad Transit”<sup>3</sup> that was made compatible with the EU New Computerised Transit System.

The Ministry of Economic Development and Trade, the Ministry of Transport and the Federal Customs Service of Russia launched negotiations in the framework of the EU-Russia Subcommittee for Customs and Transfrontier Co-operation. As a result of these negotiations, Russia and the EU re-

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<sup>2</sup> Joint Statement on Transit between the Kaliningrad Region and the Rest of the Russian Federation signed in Brussels on November 11, 2002

<sup>3</sup> The automated system “Kaliningrad Transit” is a system of circulation of documents, complied with the EU New Computerised Transit System (NCTS). In practice, it allows to receive a preliminary result of control by Lithuanian Customs Service prior to crossing the border and to avoid the necessity to complete the Lithuanian transit declaration on paper. In effect, this implies acceleration of completion of customs formalities while crossing the Russian-Lithuanian border and reduction of financial expenditures for a carrier incurred to produce the required transit documentation.

Although this system is not flawless, it is, however, progressive compared to other forms of customs procedures, which are currently practiced for the most part. Unfortunately, for certain reasons, this system has not yet been made fully operational and has not received such a wide use, as envisaged and anticipated. This is accounted for by the fact that only those consigners and carriers, who have received a document certifying guarantees to Lithuanian Customs Service, prior to commencement of the cargo conveyance may take advantage of this system. According to EU rules in force, only organisations, registered on the territory of EU member-states are entitled to issue mentioned guarantees.

iterated their intention to treat Kaliningrad as a special case and to ensure favourable conditions for the Kaliningrad transit of goods by signing a Joint Statement on EU Enlargement and EU-Russia Relations in Luxemburg on April 27, 2004. This statement specifies that “due to the **simplified administrative procedures administrative costs** for customs transit will be **lower** on 1 May 2004 than before EU enlargement...”<sup>4</sup>. At the same time, the parties agreed to apply the Common Transit Procedure of the European Union, which takes no account of the special status of Kaliningrad in EU-Russian relations and treats domestic Russian goods in transit as international ones. This is a direct evidence of a contradiction between intentions declared and a mechanism of their implementation.

Russia initiated consultations with Lithuania and the EU with a view to minimising negative effects of changes of transit conditions for the Kaliningrad Oblast's economy. Unfortunately, one must admit that the parties became engaged in discussing particularities of the issue, and not in solving it in essence. This muddles the process of problem-solving, and sometimes brings the negotiation process into a deadlock. Thus, it eliminates the significance of political decision on transit, elaborated in Luxemburg in April 2004, which urges the parties concerned towards development of a special transit scheme taking account of non-ordinary nature of the situation evolved.

On May 1, 2004 the Common Transit Procedure was introduced (while customs formalities were still completed on paper as before), according to which transit transport of cargoes between the Kaliningrad Oblast and mainland Russia has been implemented in compliance with the rules of the European Union and regulated by norms of its legislation. This led to not just higher fees charged for checks by Lithua-

nian control authorities, but more importantly, to complication and increase of length of control procedures.

The new requirements had a negative impact on the conveyance of goods subject to veterinary and phytosanitary control. Before May 1, 2004 these goods were subject only to documentary checks. According to the new rules, the main form of control is related to physical check of goods. In certain cases, taking of samples for laboratory testing is possible. This inevitably led to the extended queues of vehicles and time of cargo delivery.

Russia's concerns about new procedures of customs, phytosanitary and veterinary control, which became more complicated in the wake of Lithuania's accession to the European Union are described in a number of official papers, including the report “Kaliningrad Transit of Goods” which was prepared and published by the Trade Mission of the Russian Federation to Lithuania in November 2004<sup>5</sup>.

The costs of administrative procedures related to the Kaliningrad transit of goods, as estimated by the Kaliningrad Regional Administration, has doubled. This, as well as concerns over a possibility of an uncontrolled growth of tariffs in the future have rendered a negative impact on the business climate in the Kaliningrad Oblast. The increase of costs of transit of goods has caused a growth of prices for consumer goods delivered from the mainland Russia, as well as a growth of costs of local productions.

The increase of tariffs on transit may have controversial impact on Lithuania itself. While at the initial stage the revenues Lithuania gains from transit of goods are increasing (according to some estimates up to 200 million USD are brought up to the Lithuanian National Budget as transit payments), maintaining this trend of permanent growth of tariffs will create a threat of a shrinking freight flow as the critical level

<sup>4</sup> Joint Statement on EU Enlargement and EU-Russia Relations signed in Luxemburg on April 27, 2004.

<sup>5</sup> Russian version of the report is available at the Mission's web-site [http://www.rustrade.lt/Ktranzit/ktr\\_i.htm](http://www.rustrade.lt/Ktranzit/ktr_i.htm)

of transportation's profitability for the Kaliningrad economy is achieved; at the worst, it may urge Russia to search alternative routes for delivery of goods (for instance, an accelerated development of railway-and-ferry communication with its mainland). If events follow that scenario, there will be no winners.

Another argument in support of the urgent need to achieve a reasonable compromise is related to Lithuania's interest in the Kaliningrad market for selling its goods, as well as to the fact that about 500 joint enterprises founded with the participation of Lithuanian capital are operative on the territory of the region. These companies are also suffering from worsened transit conditions, while decrease in purchasing capacity of the region's population will hamper selling Lithuanian goods in Kaliningrad.

Finally, such a compromise would have been in line with the objective process of globalisation of the world economic system, which is ultimately aimed at enhancing integration of national economies by means of removing various political and administrative barriers. In this connection it would be expedient to consider the issue of transit of goods in a more general context of the EU-Russia partnership, for example as one of aspects of the establishment of the Common Economic Space between the European Union and Russia.

Treating Kaliningrad as a pilot region of EU-Russia relations enables the parties concerned to elaborate and test non-standard solutions, as well as to use the experience gained with a view to developing co-operation between the European Union and Russia on the whole.



*The Kaliningrad Oblast is the only subject of the Russian Federation separated from mainland Russia by territories of EU member-states*

## ASSESSMENT OF CUSTOMS CONTROL

The legal framework for the procedures of customs control is based on the provisions of the Law of the Lithuanian Republic "On Customs" of April 27, 2004 №IX-2183. Its requirements are harmonised with normative and legal basis of the European Union, and first of all the Convention between the European Economic Community, the Republic of Austria, the Republic of Finland, the Republic of Iceland, the Kingdom of Norway, the Kingdom of Sweden and the Swiss Confederation "On Common Transit Procedure" (a full list of EU regulating documents is shown in the Annex to this report).

The customs control is implemented by the Customs Department of the Finance Ministry of the Lithuanian Republic.

Starting May 1, 2004 transiting of Russian cargoes by motor-vehicles through the territory of the Lithuanian Republic from/to the Kaliningrad Oblast of the Russian Federation is done in accordance with the Customs Code of the European Union and international conventions: AETR (contains requirements, applied to drivers), ADR (regulates transportation of hazardous cargoes), ATP (regulates transportation of perishables), TIR, CMR (regulates motor-car traffic on international routes, including the order of crossing the international border).

When crossing the border, a carrier is required to produce the following documents: a financial guarantee issued by a Lithuanian bank or insurance company, a CMR way-bill, a CMR insurance, a transit bill of entry, an invoice, a certificate of origin of goods, a veterinary or phytosanitary certificate, MDP book (TIR-carnet) – for a cargo; a passport, a visa, a driving licence – for a driver; a vehicle passport, an insurance, a document, certifying goods, and an order of a motor-car – for a vehicle.

The costs of completing of one bill of entry by a customs broker starting May 1, 2004 is equal to 28 Euro for each code of

goods in a motor vehicle. Payment for services of customs brokers may be done both in cash and a cashless settlement on the basis of an agreement.

In case if there is no obvious violation and the documents are properly completed, the Customs Service of Lithuania applies a simplified procedure of customs control to cargoes in transit to/from the Kaliningrad Oblast by checking the documents. A complete customs inspection is randomly applied to motor vehicles.

The customs control is carried out only after the veterinary and phytosanitary inspection has been completed.

The fees for checks, use of the parking lot and weighting of motor vehicles are not imposed, except for non-standard cargoes.

Transit of cargoes may be permitted only if there is a financial guarantee issued by authorised Lithuanian banks or insurance companies (i.e. those, which have concluded agreements with the Customs Department of Lithuania) covering the amount of corresponding import dues and taxes. Ten Lithuanian banks and ten insurance companies, as well as the Lithuanian Association of motor-car carriers "Linava" (issuing one-time guarantees in the form of vouchers for up to 7,000 Euro) are authorised by the Customs Department of Lithuania to operate in the system of provision of



*Queen Louise's Bridge. A border-crossing point "Sovetsk (RU) – Panemune (LT)" on the Russian-Lithuanian border*

financial guarantees<sup>6</sup>. A financial guarantee may be purchased from a customs broker at the border-crossing point. Its price depends on the type of cargoes in transit as well as on the costs of services of specific Lithuanian banks and insurance companies. The forms of financial guarantees (one-time, general) are defined by the legislation of the European Union in the framework of EU Customs Code. The European Commission allows purchasing of a financial guarantee on the territory of the Russian Federation (including the Kaliningrad Oblast) from Russian banks and insurance companies, provided that they conclude corresponding agreements with Lithuanian financial structures (with obligatory registration at the Customs Department of Lithuania). However, the financial guarantees issued by Russian insurance companies do not entitle a carrier to take advantage of the “Kaliningrad Transit” electronic system.

The railway transit of goods is regulated by the Resolution of the Government of the Lithuanian Republic of April 28, 2004 №507, which provides for a facilitated implementation of the customs transit procedures. Initially the resolution was enacted for the period until December 31, 2004 and was then extended until December 31, 2005. This provides for use of the AIFC waybill, which is acknowledged as a bill of entry and exempts a carrier from his duty to produce guarantees, as the “Lithuanian Railways” Joint-Stock Company assumes the functions of a declarer and guarantor of cargo conveyance. At the same time, the rules for railway carriage for 2006 and beyond remain unclear.

The conveyance of transit cargoes by railway is done in accordance with the Customs Code, as well as a number of corresponding EU directives and resolutions.

The procedure of completion of customs formalities at the border-crossing point is done with the use of the New Computerised Transit System (NCTS).

The list of obligatory charges collected by the “Lithuanian Railways” Joint-Stock Company for transit carriage includes the following:

1) the rate of a basic tariff for carriage of cargo, approved in the price list:

- for versatile cars (boxcar, gondola, open goods truck) – 6 Euro per ton. For carriage of timber a 10% discount applies as to the category of mass cargoes;

- for specialised cars (including reefers) – 13 Euro per ton. For tank-cars – 7 Euro per ton;

2) Customs inspection of cargoes – 6 Euro per car;

3) Processing of customs transit formalities, which includes completion of the transit bill of entry and guarantee certificate – 0.07 Euro per ton.

Specific penalties ranging from 0.32 Euro to 2.5 Euro per hour depending on type of a car are set for cases of standstill of cars for reasons not related to the “Lithuanian Railways”.

## **MAIN IMPLICATIONS OF THE NEW PROCEDURES**

### **• Obligatory financial guarantee by Lithuanian insurance companies**

In accordance with the rules of transit of goods through the territory of the Lithuanian Republic, introduced on May 1, 2004 a carrier has to produce a financial guarantee issued by an insurance company registered in an EU member-state.

This requirement seeks to settle Lithuania’s concern about the fact that cargoes brought into Lithuania for transit purpose may afterwards be left on its territory, which will lead to losses of the customs duties Lithuania collects.

Therefore, Russia should come up with a proposal of an alternative (to the financial guarantee) solution to settle EU concerns about guaranteed cargo deliv-

<sup>6</sup>The full list is available at the web-site: [www.cust.lt](http://www.cust.lt).

ery that might allow a different perspective on facilitated conditions for the Kaliningrad transit of goods. With Kaliningrad seen as a model of EU-Russian partnership (movement of Russian cargoes between Russian regions through an EU member-state (Lithuania) should be considered in this context) pilot co-operation schemes could be tested without losses and even for the benefit of both parties.

One of such technical solutions, taking account of the fact that cargoes are carried between two parts of Russia along certain routes through a relatively confined part of the EU territory (Lithuania), could be the application of the modern means of control (in particular, the GPS+SMS GSM) and co-ordinated work of the Russian and Lithuanian law-enforcement agencies. Such measures could ensure the desired level of guaranteed delivery of transit cargoes through the EU territory (Lithuania) and remove corresponding concerns.

The solution of the financial guarantee problem is particularly important, as it will enable the technical conditions necessary to apply the automatised system 'Kaliningrad Transit'. This, in its turn, will allow avoiding customs formalities on paper and, therefore, will reduce time and financial losses for carriers as services of Lithuanian customs brokers will be no longer necessary.

- **Services by Lithuanian customs brokers to complete customs declaration (necessitated by the obligatory financial guarantee by a Lithuanian insurance company) and 30% raise in the costs of their services**

Lithuania refers to a market regulation of this issue, which, however, led to increase of costs that may not be fully justified for such a sensitive issue, as the Kaliningrad transit. At the same time, this problem relies

heavily on the solution of the problems related to financial guarantees as described above.

- **Organisational drawbacks of the transit scheme based on the automatised system "Kaliningrad Transit"**

This system, despite its progressive nature, has, however a potential for improvement. It is related to the fact that entering of data into the European customs information system NCTS is done by the Russian customs at the internal customs office. This implies that Russian carriers conveying cargoes from one part of Russia to another are forced by request of customs to pass through customs procedures at the internal customs office and resort to necessitated services of customs brokers. This entails additional expenditures for participants of transit conveyance of non-export/import cargoes. Moreover, the goods manufactured in the Special Economic Zone or refined of import duties should not be subject to customs formalities on the Russian side of the border. For a cargo owner it should be enough to transfer data to the customs office in the electronic form without putting his transport vehicle with the cargo at the warehouse of temporary storage, and all the more, without completing customs transit formalities. The Russian Customs, in its turn, should resend this data to their Lithuanian colleagues at the border customs post of entry.



*Starting May 1, 2004 transiting of Russian cargoes by motor-vehicles through the territory of the Lithuanian Republic is regulated by the Customs Code of the European Union*

## ASSESSMENT OF VETERINARY CONTROL

The legal framework for the procedures of veterinary inspection is based on the provisions of the Decree of the Director of the State Food and Veterinary Service of the Lithuanian Republic of May 21, 2004 №B1-520, which have been harmonised with the normative and legal basis of the European Union.

The fundamental EU document in the field of veterinary control is the Council Directive 97/78/EC of December 18, 1997, which sets principles for regulation of organisation of veterinary control of products, imported to the Community from third countries (a full list of EU regulating documents is presented in the Annex to this report).

Veterinary control is implemented by the State Food and Veterinary Service of Lithuania within the Government of the Lithuanian Republic.

In order to implement the procedures of transit transportation of goods, subject to veterinary inspection, the Russian carrier has to complete the co-called Common Veterinary Entry Document (CVED), thus assuming obligations to comply with veterinary requirements of the European Union. The CVED is comprised of two parts. The first part is completed in one of the EU official languages by the consignor of goods (or an authorised person, i.e. forwarder) and should be sent to the Lithuanian post of veterinary control (by fax or e-mail) no later than 24 hours prior to the arrival of cargoes to the border station of entry. The second part is to be completed at the border-crossing point by an inspector of the State Food and Veterinary Service of Lithuania.

It should be mentioned that there is a set list of goods of commodity nomenclature, which do not require producing of the CVED: grain for animal feeding (1001-1008); products of flour-grinding production: malt, starch, gluten for animal feeding (1101-1109); seeds and other vegetables for animal feeding (1201-1208, 1213, 1214); barm for animal feeding (2102.20.19, 2102.20.90); waste products of food indus-

try for animal feeding (2302-2306, 2308).

In case of conveyance of cargoes by motor-cars, the fees for veterinary inspection are paid in Lits in cash at the veterinary post.

For the railway conveyance of cargoes, the veterinary certificate should be produced for each consignment, and in case of transportation of a group of railway cars within one AIFC waybill – for each car.

### MAIN IMPLICATIONS OF THE NEW PROCEDURES

#### • Tightened measures of veterinary control

Up to 100% of Russian cargoes of animal origin are subject to veterinary inspection if transported by transit through Lithuania in a *closed* sealed vehicle. The nature of inspection is determined either by the decision of a veterinary inspector, according to the randomness (suddenness) principle, or in accordance with a designed scheme (depending on the type of cargo, each, every second, third, etc. consignment is subject to a complete check). The minimal form of veterinary control is identity check. Complete veterinary control implies total unloading of cargoes from the transportation vehicle, unpacking, and laboratory testing. In accordance with the EU rules, enhanced requirements are set for packing and marking of cargoes.



*Railway transit conveyance of goods is done in accordance with the Agreement on International Freight Communication (AIFC)*

At the same time, it remains unclear why specific conditions are not stipulated for cargoes, which are transported in refrigerator trucks or reefers. In essence, such mode of transportation is used for conveying of all sorts of goods of animal origin, which, provided that cargoes are sealed and left unopened on the territory of Lithuania, eliminates possibility of spreading of hazardous organisms in Lithuania. It gives grounds to believe that other forms of veterinary control (i.e. identity check and laboratory tests) will become unneeded provided Russia and the EU come to an agreement on equivalence of veterinary certificates.

It should be mentioned, that EU legislation, namely Council Directive of December 18, 1997 97/78/EC Article 10, provides for a possibility of concluding an agreement with the European Union on reduced frequency of veterinary checks for third countries' (in this case - Russian) cargoes.

- **Extension of the list of items subject to veterinary control, some of which are not subject to Russian veterinary inspection service and certificates**

Extension of the list of codes of goods subject to control by the Lithuanian veterinary inspection has taken place due to the introduction of veterinary rules and regulations of the European Union. One of related implications is that this list exceeds a similar Russian veterinary inspection list by many items. For this reason, the Lithuanian veterinary inspection checks and issues its veterinary certificates on goods, which are not included into the list of cargoes subject to control by the Russian veterinary inspection.

- **Increase in veterinary control fees by 30%**

The current veterinary control fees are equal to 28 Euro per article (code) of goods in a railway car or a motor vehicle (com-

pared to 21 Euro until May 1, 2004). Therefore, additional information is required in order to clarify and justify the growth of the rate of fees, namely new expenditures related to implementation of veterinary control.

- **Prohibition of conveying live animals for agricultural purposes**

After EU enlargement on May 1, 2004 another transit-related problem emerged: conveyance of live animals, which are prohibited for transit from/to the Kaliningrad Oblast through the territory of the Lithuanian Republic. This has led to the fact that live animals may be carried only by transit via Poland (Bagrationovsk – Bezledy border-crossing point). After this problem was put to attention in the course of negotiations, Lithuania made certain concessions, and currently sport and small-sized domestic animals are permitted for transit, as an exception, if accompanied by their owners.

# ASSESSMENT OF PHYTOSANITARY CONTROL

Legal framework for the procedures of phytosanitary control is composed of the Decrees of the Ministry of Agriculture of the Lithuanian Republic of June 27, 2003 №3D-258/1K-175, June 30, 2003 №3D-264, May 7, 2004 №3D-299, and August 1, 2003 №3D-317. The provisions of these decrees are in agreement with the normative and legal basis of the European Union. The main EU documents in the field of phytosanitary control are Council Directive 2002/89/EC of November 28, 2002 and Council Directive 2000/29/EC of May 8, 2000.

Phytosanitary control is carried out by the State Service for the Protection of Plants at the Ministry of Agriculture of the Lithuanian Republic.

A complete phytosanitary control comprises: a documentary check, an identity check, a physical check, and a laboratory test. A phytosanitary inspector decides on the necessity of a laboratory test at the border cross-point.

Starting May 1, 2004 fees are collected for phytosanitary checks.

It should be mentioned that control of the boxcars is implemented by means of documentary checks of cargoes without charging fees. The Lithuanian phytosanitary service sets special requirements for timber conveyance: timber conveyed or originating from the Asian part of Russia, transported in an open rolling-stock is subject to complete checks.

Currently, the State Service for Protection of Plants of Lithuania in accordance with the Council Directive 2002/89/EC is planning to introduce the following amendments to the order of phytosanitary inspection: introduction of fees for each single checking procedure, extension of the list of prohibited hazardous organisms, tightening of requirements in respect to conveyance of timber and wooden packing.

Lithuanian authorities acknowledge phytosanitary certificates issued for transited cargoes by the Russian Phytosanitary Service. This entitles Russian carriers to freely cross the Lithuanian border. However, the period of validity for the Russian certificate is limited to 14 days only. At the same time, as Lithuania confirmed in February 2005, transit conveyance of cargoes between the Kaliningrad Oblast and Russian mainland shall be exempted from the 14-day phytosanitary certificate. According to expert estimates, as a result the volume of cargo conveyance between the region and the Asian part of Russia will at least double as many of agricultural cargoes and timber destined to Kaliningrad from the Urals, Siberia, and the Far East of Russia could only reach the Byelorussian-Lithuanian border within 14 days.<sup>7</sup>

## MAIN IMPLICATIONS OF THE NEW PROCEDURES

### • Imposition of fees for phytosanitary control

Fees for phytosanitary control are equal to 8 Euro for a documentary check and 17 Euro for a physical check. Before May 1, 2004 no fees were charged for these types of control.

According to the Council Directive



*90% of the total volume of transited goods is carried by railway*

<sup>7</sup> "Rossijskaya Gazeta" newspaper, February 28, 2005.

2002/89/EC, Annex VIII-a, the standard fee imposed by competent EU authorities should make:

7 Euro per consignment<sup>8</sup> for a documentary check, and 7 Euro per consignment for an identity check. Various fees are also imposed for plant health checks.

Furthermore, it is also stated therein that “any fee ... shall be no higher than the actual cost borne by a responsible official body of the Member State”, and that “Member States may either set the level of the Phytosanitary fee on the basis of a detailed cost calculation... or apply the standard fee as specified in Annex VIII-a.”<sup>9</sup>

The analysis of the current approach to the phytosanitary inspection fees poses questions. In accordance with the above-mentioned report of the Trade Mission of the Russian Federation to Lithuania<sup>10</sup>, actual fees (laboratory checks excluded) amount to 14 Euro per article (code) of goods in a vehicle and 16.5 Euro per article (code) of goods in a railway carriage. Fees for laboratory tests make 4.8 Euro for identification of one hazardous organism and 9.6 Euro for identification of two hazardous organisms.

Thus, it may be noted that fees currently collected for phytosanitary inspection of cargoes conveyed by railway carriages are higher than those recommended by the EU. In the course of informal discussions launched by the EastWest Institute, the European Commission representatives have admitted that this fact needs further examining. In this respect, EU requirements of transparent cost calculation and correspondence of fees to the actual cost borne by the phytosanitary authorities should be taken into account. In this relation, a detailed analysis of cost calculation may either justify

these expenditures and incurred fees, or allow to identify potential for reduction.

#### • **Tightened measures of phytosanitary control**

After Lithuania's accession to the European Union up to 70% of Russian vegetal cargoes carried in an *open* non-sealed rolling-stock or vehicles are subject to a complete phytosanitary inspection.

EU legislation, namely Council Directive 2002/89/EC of 28 November 2002 Article 13a, provides for a possibility of concluding an agreement with the EU on reduced frequency of phytosanitary checks for third countries' (in this case - Russian) cargoes.

<sup>8</sup> Consignment: a quantity of goods being covered by a single document required for customs formalities or for other formalities, such as a single phytosanitary certificate or a single alternative document or mark; a consignment may be composed of one or more lots. In this report a “consignment” is identical to an “article (code) of goods”.

<sup>9</sup> Council Directive 2002/89/EC, Article 13-d.

<sup>10</sup> Russian version of the report is available at the Mission's web-site [http://www.rustrade.lt/Ktranzit/ktr\\_i.htm](http://www.rustrade.lt/Ktranzit/ktr_i.htm).

# THE PROBLEM OF THE KALININGRAD TRANSIT OF GOODS IN THE CONTEXT OF EU-RUSSIA RELATIONS

The issue of the Kaliningrad transit of goods is now being discussed exclusively in technical terms by responsible authorities of the Russian Federation and the EU. Unfortunately, so far both parties have been wasting a considerable amount of their efforts on a superfluously detailed consideration of procedural and technical aspects, whereas it seems to be more prospective and fruitful to focus the “dialogue on issues of common interest in the transport field, with a view to promoting the complementarity of the Russian and EU transport sectors and gradual integration of transport networks, removing technical and administrative bottlenecks and ensuring transport infrastructures’ interoperability by way of approximating respective legislation”<sup>11</sup>, which is one of important objectives for establishment of the **Common Economic Space**. Development of practical co-operation, particularly in the field of organisation of transcontinental freight transport, is also of a great interest and economic expediency.

At the same time, apparently, there is a certain risk for **politicising** the transit issue, due to its high sensitivity to Russia, lacking progress in, and vague prospects for its solution, as well as EU acknowledgement of the problem along with its insistence on finding solutions exclusively in the framework of European legislation. This concern has urged EWI to make efforts on analysis of the existing situation with a view to finding and proposing a compromise, mutually beneficial solutions in the spirit of genuine EU-Russia partnership, and **from the perspective of strategic interests and prospects of Russian-European co-**

**operation.**

First of all, it may be noted that the “**toll**” for the unsettled transit issue with its negative effects on the Russian-European relations continued for over a year, seems to have been underestimated. For Russia this is one of the key issues related to ensuring conditions for life-support of the Kaliningrad Oblast and its socio-economic development, which have become especially topical resulting the aftermath of **EU enlargement**. In essence, the current situation around the transit of goods is similar to that of the passenger transit faced previously. Here, it should be emphasised that at that time the parties succeeded in solving the passenger transit problem due to a more flexible approach of the EU to European legislation. A year that has passed since the rules of the transit of goods were changed shows that an optimal solution of the problem of freight transit may be most effectively found, as it seems, only using similar approaches.

Another aspect is also important: if the parties indeed see strategic prospects for a mutually beneficial co-operation of their transport complexes, then, as the Russian President V. Putin said “such “bottlenecks” [as the problem of transit of goods] ... should be eliminated. There are no objective circumstances for preserving them.”<sup>12</sup>

Taking account of potential for co-operation between transport complexes of Russia and EU member-states in the field of servicing of freight traffic between the Far East and Western Europe, it would be expedient to consider the Lithuanian section of the “Kaliningrad transit” as an opportunity for testing a pilot mechanism of expedite

<sup>11</sup> Road Map for the Common Economic Space

[http://europa.eu.int/comm/external\\_relations/russia/summit\\_05\\_05/finalroadmaps.pdf#ces](http://europa.eu.int/comm/external_relations/russia/summit_05_05/finalroadmaps.pdf#ces)

<sup>12</sup> Official web-site of the RF President

[http://www.kremlin.ru/appears/2004/12/23/1414\\_type63380type82634\\_81691.shtml](http://www.kremlin.ru/appears/2004/12/23/1414_type63380type82634_81691.shtml)

movement of goods between Russia and the EU, which consequently could be applied between the parties on the whole. This, in its turn, would allow to speak more confidently of prospects for co-operation in organisation of unhindered cargo conveyance between Japan and China, for instance, and European countries with the use of transport capacities of Russia and the EU. If the parties intend not to compete, but cooperate with a view to succeeding on the **global markets of freight transport**, then one may not underestimate the importance of resolving this issue as soon as possible.

In other words, such a strategic vision may allow avoiding treatment of the Kaliningrad transit as one of problems of bilateral relations, but rather to consider it as a factor promoting simplification of the procedures of movement of goods between Russia and EU member-states, based on a **win-win approach** and **mutual harmonisation** of customs, veterinary and phytosanitary rules and procedures.

In this context it would be appropriate and expedient to consider **reciprocity**. It is not only the EU, which could simplify transit procedures for Russian cargoes, but Russia also could act in the same way in respect of EU transit goods conveyed between different EU member states through the territory of Russia (for example, between the Baltic and Scandinavian states).

At the same time, as it has been found out in the course of the informal discussions launched by the EastWest Institute, **the status of goods in Russia is irrelevant to the EU**, according to some of European Commission officials.

It should be noted, that the dialogue between the two partners – Russia and the EU – presupposes accounting of mutual concerns and interests of the parties. In other words, in order to successfully resolve the problem of the Kaliningrad transit of goods it would be productive if the parties, first of all, accepted each others concerns, which allowed to achieve a compromise solution

more successfully. Apparently, the major concern for Russia in respect of freight transit is related to an ultimate simplification of the transit procedures and reduction of costs incurred. At the same time, for the European Union the main concerns are related to its economic and security interests. In this context, the above-mentioned compromise could be most effectively achieved if the parties managed to set the focus of the discussion not on searching solutions exclusively in the framework of the EU legislation, but on the elaboration of **common** transit rules and procedures with a view to testing them on the Kaliningrad transit of goods and – if found effective – consequently applying them to cargo conveyance between Russia and the EU on the whole.

Unfortunately, the present course of the discussion raises doubts about the possibility of a successful solution of the key problem, related to the special geopolitical location of Kaliningrad: the region, while being a part of Russia, keeps suffering major barriers on the way of cargo communication with the mainland of the country.

This state of affairs forces Russia to solve the problem of cargo transit without EU involvement: in particular, to develop a port complex in the Leningrad Oblast and to organise sea conveyance **bypassing the EU territory**. The latest Russian initiative was the launch of a new cargo ferry line “Rotterdam-Kaliningrad-St. Petersburg” in June 2005, which was designed to reduce Kaliningrad’s dependency on transit standpoints of the EU in general and Lithuania. The doubts may, however, arise if such a trend is in agreement with the declared spirit of EU-Russian partnership. The existing situation hardly corresponds to economic interests of Lithuania either: on the one hand, the Lithuanian Railway may lose certain cargo traffic bypassing the country (with the Lithuanian national budget losing part of its revenues), on the other hand, hundreds of joint ventures, founded in the Kaliningrad Oblast with Lithuanian invest-

ments, are suffering from worsened transit conditions, since a considerable part of their products is supplied to the market of mainland Russia through territory of the Lithuanian Republic.

Another opportunity to successfully solve the issue of the Kaliningrad transit of goods may be found if Russia and Lithuania seek solutions more actively on a bilateral basis. According to the statement of the RF Presidential Aide, Special Envoy for Further Development of Relations with the European Union S.Yastrzhembsky, "The EU, apparently, would not object if the issue of the Kaliningrad transit would be, first of all, solved not so much at the Brussels platform, but at a bilateral level – between Russia and Lithuania"<sup>13</sup>. Though, it should be noted that Lithuania has not demonstrated its readiness to solve the issue of transit directly with Russia, referring to the prerogative of the European Union.

Nevertheless, a bilateral agreement on State guarantees provided by Russia could be considered as one of possible solutions of the guarantee issue in the framework of the proposed format. In view of the fact that goods in transit are conveyed to/from Kaliningrad through the territory of a single EU member-state, it seems expedient to conclude an agreement, which would stipulate Russia's obligation to reimburse to Lithuanian (EU) budget all import duties in cases when Russian carriers break the customs transit procedures (for example, in cases of non-delivery of goods to the Lithuanian customs post of destination). This idea presupposes that Russia would take care of all the issues related to recovering duties from Russian carriers. Such a solution would allow to: a) to provide the Lithuanian Republic (EU) state (i.e. 100%) guarantees of reimbursement of all duties, lost by the budget; b) to exempt conscientious Russian carriers from a burden of additional expenditures on purchasing of financial guarantees; c) to serve as an example of a "pilot" scheme

of co-operation in Kaliningrad, which does not infringe on the interests of any of the parties and at the same time ensures benefit to at least one of them; d) to considerably facilitate the use of the automatised electronic system "Kaliningrad Transit".

Although, such an approach is not in complete agreement with the existing European legislation regulating customs transit procedures, it seems, however, that it allows to take full account of EU and Lithuania's interests.

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<sup>13</sup> "Interfax" New Agency: [http://www.interfax.ru/r/B/exclusive/22.html?id\\_issue=11273088](http://www.interfax.ru/r/B/exclusive/22.html?id_issue=11273088)

## CONCLUSIONS

From the beginning, the main idea of approaching the solution of the issue of the Kaliningrad transit of goods was to make joint efforts to reduce costs and to simplify the whole process of conveyance of the Russian goods from/to the Kaliningrad Oblast through the territory of the Lithuanian Republic, which presupposes minimising of the participation of any commercial structures in these procedures. However, it should be admitted that the intermediary economic entities – customs brokers on both sides, and insurance companies on the Lithuanian side, pursuing their commercial interests have been made an integral part of the transit procedures.

Instead of reaching an agreement on procedures for a 100%-delivery of transit goods, Russia found itself in the situation of an “unheard petitioner”. Thus, the least favourable (i.e. the most complicated and costly) of schemes of transit for Russian carriers has been introduced implying obligatory producing of a guarantee certificate, a Common Veterinary Entry Document, and a bill of entry from Lithuanian commercial companies at the Lithuanian territory.

Based on the analysis given in the present paper, the following conclusions have been made:

- There is a certain inconsistency in how Russia, the EU, and Lithuania, interpret the EU-Russia agreement reached in the course of preparation for EU enlargement and, particularly the Joint Statement of April 27, 2004. Instead of searching and proposing the mutually acceptable solutions to the Kaliningrad transit of goods, the parties have wasted substantial efforts on making mutual claims.

- The parties have given different estimates of implications of new customs transit procedures made. Apparently, this became possible due to the fact that none of the existing studies addressed this issue comprehensively and all-inclusively based on the analysis of the practice of the new transit regulations introduced after EU enlargement.

- Two decision-making centres, i.e. Brussels and Vilnius, seemingly do not contribute to clarity in solving the problem of customs transit. Another aspect relates to the fact that some of the requirements bear a temporary nature and are to be revised by competent Lithuanian (EU) authorities in accordance with the directives of the European Commission.

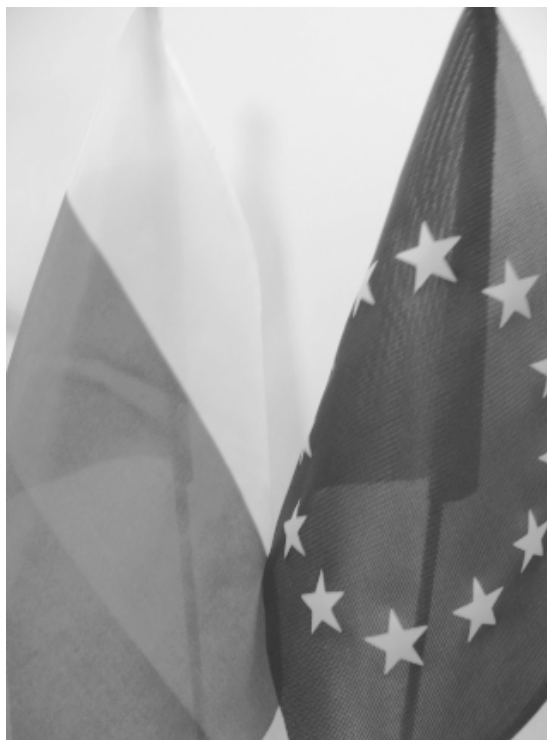
- Kaliningrad economy is obviously extremely dependent on the transit of goods to/ from mainland Russia. This makes the region exposed to the impact of external factors of development, such as changes in EU transit regulations. Thus, solution to such a sensitive issue aimed at effective simplification of transit procedures and reduction of related costs would indeed be one of the key prerequisites for a predictable business environment, as well as a stable basis for Kaliningrad’s socio-economic development on the whole.

- Special geopolitical situation of Kaliningrad, Lithuania’s national interests, partnership spirit of Russian-EU relations, and the technical solutions found are all arguments in favour of treating the Kaliningrad transit of goods as a special case, i.e. to consider applying a simplified (compared to the standard international) customs transit procedures in a test mode.

**Thus, solutions to the issue of the Kaliningrad transit of goods could be most effectively found if the parties manage: firstly, to treat the ‘Kaliningrad factor’ as an opportunity to test pilot schemes of freight transit with the use of simplified customs rules and procedures in line with the implementation of the road map for the establishment of the Common Economic Space (in parts, relevant to the customs and transport spheres); secondly, to adhere to the principle of reciprocity, i.e. to apply similar simplified procedures of freight transit for goods from the EU countries, conveyed through the territory of Russia; thirdly, to start practical realisation**

**of the potential economic benefits of the implementation of joint large-scale projects of cargo conveyance on the 'Far East – Western Europe' route via Lithuania and Kaliningrad, which considerably exceeds the current profits of brokerage and insurance entities involved in servicing of the Kaliningrad transit flow of goods.**

The parties should also come to the understanding of the importance of establishing a joint system for monitoring all procedures applied to Russian domestic cargoes transited through the territory of the EU (Lithuanian Republic), as well as the practice of their fulfillment. It would be expedient to implement this in the framework of a standing mechanism of EU-Russia negotiations on the whole range of Kaliningrad-related issues that was proposed at the 14<sup>th</sup> EU-Russia summit in November 2004 and that is currently discussed.



## RECOMMENDATIONS

If the parties are seeking to resolve the problems related to the Kaliningrad transit of goods, in addition to political will they also need the awareness and acceptance of the following fundamental principles:

- Lithuania as a sovereign state and an EU member-country is entitled **and required** to inspect and to issue permission for movement of third countries' cargoes (in this case - Russian) through its territory.

- Russia – as a partner of the European Union – while transporting its domestic cargoes between its mainland and Kaliningrad, could expect understanding of its concerns about the Kaliningrad transit, ultimately leading to favourable conditions (simplified procedures) for transit of Russian goods through the EU territory (Lithuania). Such conditions, including inspection of cargoes by Lithuania, should be based on the principles of randomness, mutual recognition of certificates, as well as on the exclusion of the commercial component from the transit procedures applied to Russian domestic goods as well as the creation of all necessary conditions for operating the automatised system “Kaliningrad Transit”.

Specific recommendations for all of the parties on the establishment of a special scheme of transit conveyance of goods, which would meet the interests of Russia, the European Union, and Lithuania and at the same time would allow to actually simplify these transit procedures and to reduce their costs, are listed below.

### THE RUSSIAN FEDERATION

- **Co-ordination of efforts of all public authorities interested and involved in solving of the problems associated with the Kaliningrad transit of goods should be improved.**

This may be achieved in two ways. Firstly, via developing and approving (in the form of a special normative document) the order of interaction of the ministries, involved in realisation of the procedures for

the transit of goods between the Kaliningrad Oblast and Russian mainland. Efforts of the Federal and regional authorities concerned may also be co-ordinated on the basis of the Expert Advisory Council under the Interdepartmental Working Group on the Development of the Kaliningrad Region established within the Administration of the Russian President. Secondly, by proposing the European Union to consider the issues related to the Kaliningrad transit in the framework of a joint mechanism for EU-Russia negotiations on the whole range of Kaliningrad-related issues, which was proposed at the 14<sup>th</sup> EU-Russia summit in the Hague in November 2004 and which is being currently discussed. The latter framework may be also proposed as a basis for a joint Russia-EU system of monitoring the fulfilment of all procedures of the Kaliningrad transit of goods.

- **The electronic transit scheme, which simplifies and facilitates the Kaliningrad transit of goods should be advocated and an initiative aiming to remove obstacles for operating the “Kaliningrad Transit” automatised system should be proposed to Lithuania.**

It is important to promote the practical use of the modified version of the “Kaliningrad Transit” electronic system since it seeks to replace the Lithuanian customs declaration on paper. This will render the services by commercial customs brokers for transit of Russian cargoes through the EU (Lithuania) redundant and therefore unnecessary. By eliminating excessive customs procedures, it shall eventually allow to substantially reduce the costs borne by Russian carries. The capacities of this system can be further enhanced. One of such possibilities is to include the data of the first page of the CVED for transferring it to the Lithuanian segment of the NCTS.

A number of alternative possible options are proposed below aiming to enable

the practical operating of the 'Kaliningrad Transit' automatised system:

1) To propose the Lithuanian side to modify the "Kaliningrad Transit" system with a view to entering into the NCTS the number indicated in the insurance certificate issued by an insurance company registered in Russia (provided it concluded an agreement with one of the authorised Lithuanian insurance companies);

2) To formulate proposals aiming to replace the guarantees issued by EU-registered insurance companies with the guarantees of the Russian-registered companies, for instance, "ASMAP" (the Russian Association of International Motor-Car Carriers) and the "Mutual Insurance Society "Carrier's Club" the former founded. It should be noted that rules of insuring the carrier's responsibility have been drafted.

3) To accelerate the process of mutual recognition of financial guarantees between Russia and Lithuania in view of the importance of this issue for the Kaliningrad transit of goods.

4) To propose a technical solution to due cargo delivery, which would render (the purchase of) financial guarantees against non-delivery of goods on the territory of EU countries (Lithuania) unnecessary. This could be achieved if Russia came up as a guarantor of 100% cargo delivery and concluded a corresponding bilateral agreement with Lithuania complemented with an initiative to establish a jointly-run system of guaranteed cargo delivery at the transit section of Lithuania's territory with the use of means of control over the transport vehicles (such as the GPS+SMS GSM).

**• Efforts should be taken in order to eliminate customs formalities on paper for Russian domestic goods and necessitated services of customs brokers on the Russian side.**

This could be achieved if consignors and/or carriers were able to directly trans-

fer the data to the Russian customs via Internet from any place convenient for them. The option may be justified by the fact that the customs will have enough time to process the incoming information and to get prepared for checking the cargo (provided the data is transferred and received 3-4 hours before the arrival of the goods to the customs post). Such a step will allow to save a considerable amount of time for carriers and will reduce in this case excessive functions of the Russian customs authorities, consequently allowing the Russian carriers to avoid the necessity of resorting to services of Russian customs brokers.

To this end, Russia is recommended to provide respective legal regulations for a transfer of data about consignments of Russian cargoes from consignors to customs only in the electronic form, without submission of paper documents to the internal customs offices.

**• Clarification of the appropriateness of application of specific norms, which complicate the procedure for the Kaliningrad transit of goods should be requested.**

It is particularly important to understand the principles of cost calculation for veterinary and phytosanitary checks, which affect respective fees. This would contribute to better understanding of the reasons for the increase in collected fees, as well as to identifying potential for reducing expenditures of relevant controlling services and fees they collect. It is also important to understand why different rates of fees for phytosanitary control are applied to goods conveyed in railway carriages and motor-vehicles.

**• Measures aimed at mutual harmonisation of the rules and procedures of customs transit, particularly those related to concluding an agreement on equivalence of certificates and**

**reduced frequency of checks should be developed and proposed to the European side.**

Taking account of EU legislation provisions, it would be expedient to consider concluding a bilateral Russia-EU agreement on a reduced frequency of identity and physical checks and laboratory tests on a mutual basis. Referring to veterinary certificates, Russia is proposed to bring its list of items subject to control by its veterinary service in accordance with that of the EU and to propose the EU to consider concluding an agreement on a mutual recognition of veterinary certificates. Both these measures could substantially reduce time- and financial losses of Russian carriers.

**THE EUROPEAN UNION**

**• To consider possibility of simplification of the rules and procedures for the Kaliningrad transit of goods, as well as of bilateral harmonisation of the rules and procedures of customs transit with the Russian Federation.**

Taking account of importance of deepening of mutual trust between the European Union and the Russian Federation, development of bilateral relations in the spirit of strategic partnership, a practical cooperation on establishment of the Common Economic Space, EU commitment to promotion of the socio-economic development of the Kaliningrad Oblast and its transformation into the pilot region of EU-Russian cooperation it is recommended to view the issue of the Kaliningrad transit of goods not as a problem of inconsistency of the Russian and EU legislation, but as a test case for development of new harmonised rules and procedures of customs transit, meeting mutual interests of all sides, that may also be applied by the Russian side towards cargo operators from EU member-states transiting their goods both through the territory of the Kaliningrad Oblast, and

the Russian Federation as a whole.

**• Awareness of the Russian carriers regarding the procedures for freight transit should be raised.**

In view of the fact that currently the procedures regulating the Kaliningrad transit of goods are not clear enough and the Russian carriers face difficulties with accessing first-hand information, it would be expedient to launch a web-site, dedicated exclusively to the Kaliningrad transit of goods and containing all the relevant information, including description of procedures of border, customs, veterinary and phytosanitary controls, contact information of responsible Lithuanian and EU bodies, etc. Such a portal may be established by the EU in the framework of its efforts on technical assistance to promote socio-economic development of the Kaliningrad Oblast and strengthening of neighbourhood relations with Russia.

**• Correspondence between Lithuanian legislation regulating customs transit procedures and EU norms should be monitored.**

One of disparities between Lithuanian legislation and provisions of the European law (different rates of fees for phytosanitary control imposed on goods conveyed in motor-vehicles and railway carriages) was identified and described in this report. However, other inconsistencies are also possible. The EU is urged therefore to clarify how its norms and requirements are interpreted and fulfilled by Lithuania in what concerns the conditions of the Kaliningrad transit of goods, as well as pay especial attention to elimination of such disparities.

**THE LITHUANIAN REPUBLIC**

**• A mutually agreed order of informing the Russian side of the expected changes in provisions regulating the**

**procedure for customs transit and affecting the conditions of the Kaliningrad transit of goods should be proposed.**

Such measure is especially important in view of the fact that Kaliningrad economy is affected by the changes in customs transit conditions. In order to create a more predictable environment for Kaliningrad's development, a certain advance notification is needed to allow the Russian side to get ready for the expected changes in EU legislation.

**• The existing procedures based on the Agreement on International Freight Communication (AIFC) for the railway conveyance of goods should be maintained.**

This measure meets the interests of all parties and is important, as approximately 90% of the total volume of transit of goods is carried by the railway.

**• Efforts should be taken to review the established fees for phytosanitary and veterinary control in order to consider reducing them.**

In this regard, the following EU principles should be taken into account:

- fees shall be no higher than the actual costs borne by a responsible official body and be set on the basis of a detailed cost calculation;
- transparency of cost-calculation shall be complied with as it may allow to increase the level of trust and understanding of the reasons for the increase of costs by the Russian side or, otherwise may enable finding ways to reduce the fees.

## **ANNEX. LIST OF REFERENCES**

### **CUSTOMS CONTROL**

Convention between the European Economic Community, Republic of Austria, Republic of Finland, Republic of Iceland, Kingdom of Norway, Kingdom of Sweden and the Swiss Confederation "On Common Transit Procedure"

Customs Code of the European Union

Council Regulation (EEC) № 2913/92 of October 12, 1992

Commission Regulation (EEC) № 2454/93 of July 2, 1993

Law of Lithuanian Republic "On Customs" of April 27, 2004 №IX-2183

Resolution of the Government of the Lithuanian Republic of April 28, 2004 №507

### **VETERINARY CONTROL**

Council Directive 97/78/EC of December 18, 1997

Council Decision № 79/542/EEC of December 21, 1976

EC Decision № 2000/572/EC of September 8, 2000

EC Decision № 2000/585/EC of September 7, 2000

EC Decision № 2000/609/EC of September 29, 2000

EC Decision № 2003/779/EC of October 31, 2003

EC Decision № 2004/438/EC of April 29, 2004

EC Decision № 94//984/EC of December 20, 1994

EC Decision № 97/221/EEC of February 28, 1997

Decree of the Director of the State Food and Veterinary Service of Lithuanian Republic of May 21, 2004 №B1-520

### **PHYTOSANITARY CONTROL**

Council Directive № 2002/89/EC of November 28, 2002

Council Directive № 2000/29/EC of May 8, 2000

Decrees of the Ministry of Agriculture of Lithuanian Republic of June 27, 2003 №3D-258/1K-175; June 30, 2003 №3D-264; May 7, 2004 №3D-299; August 1, 2003 №3D-317

### **EU-RUSSIA ARRANGEMENTS**

EU-Russia Joint Statement of November 11, 2002

EU-Russia Joint Statement of April 27, 2004

Road Map for the Common Economic Space of May 10, 2005