

# EXPANDING BOUNDARIES OF YOUR BUSINESS

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Customs and Foreign Trade  
Regulation Practice

## CONTENTS

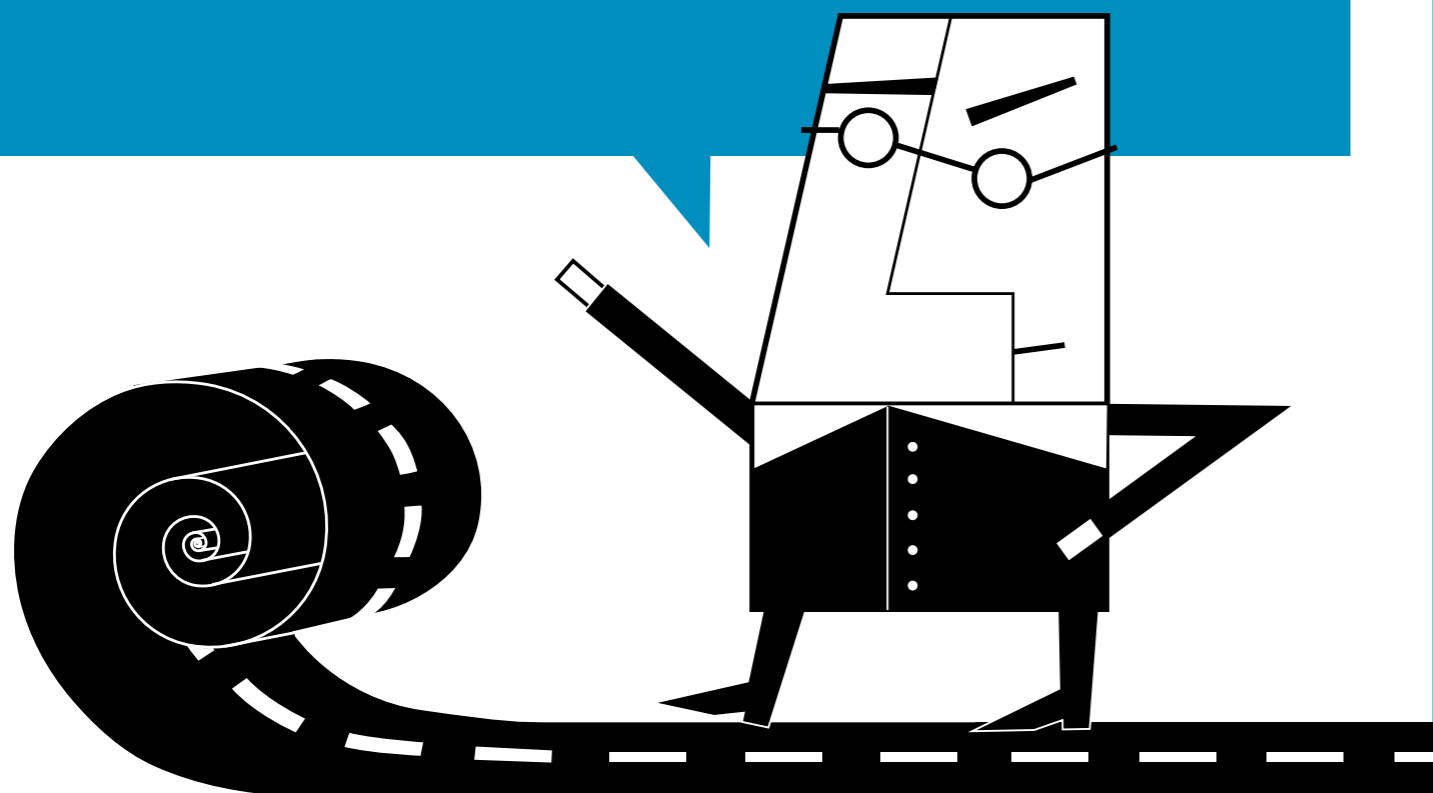
CUSTOMS PRACTICE:  
FACTS AND FIGURES 04

OUR SERVICES 06

THE TEAM 12

ABOUT THE FIRM 14

GEOGRAPHICAL SCOPE  
OF OUR SERVICES 16

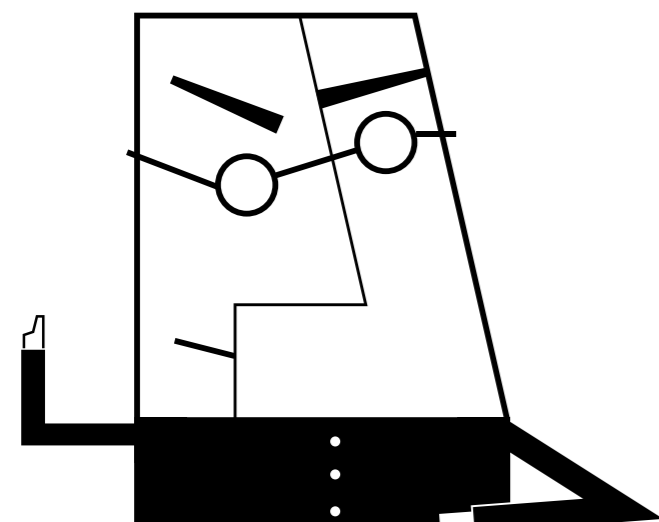


# CUSTOMS PRACTICE: FACTS AND FIGURES

The financial crisis has led to the solutions that companies have traditionally applied in the past becoming more expensive. This is especially true when it comes to customs, an area where decisions are taken that may prove strategically important for all subsequent supplies.

Pepeliaev Group's Customs and Foreign Trade Regulation Practice is a team of experts with an extensive background of working in customs authorities as well as major international companies. We are able to provide legal support in implementing comprehensive projects both in Russia and abroad. In the majority of cases, the advice provided by our lawyers allows our clients to rule out all customs risks. Nevertheless, if required, we are ready to represent our clients in courts or before administrative bodies.

The Eurasian Economic Commission (EEC), Russia's highest courts, and federal executive bodies all engage our lawyers as experts to work out and improve customs legislation and to draw up unified approaches for applying it. Our lawyers act as experts for Business Russia, the Chamber of Commerce and Industry, and Agency for Strategic Initiatives. They are engaged by the Eurasian Economic Commission, the State Duma, the Russian Supreme Court, ministries, and governmental departments.



## Alexander Kosov

Partner, Pepeliaev Group

- Was part of a team drafting Resolution No. 18 of the Plenum of the Russian Supreme Court dated 12 May 2016 'On certain matters connected with the application of customs legislation by courts'
- Has been included in the working group that is preparing a draft resolution of the Plenum of the Russian Supreme Court on court practice in relation to cases concerning smuggling



**84 clients**

**147 projects**

**17 court cases**

(In 15 cases the courts decided in favour of our clients, while we managed to minimise the fine for one other client, and one client decided not to proceed with its case)

**3 criminal cases**

(all of them successfully closed)



**72 clients**

**110 projects**

**48 court cases**

(In 46 cases the courts decided in favour of our clients. In one lost case the client knowingly proceeded with the litigation buying time to gather enough money to pay the fine)



**69 clients**

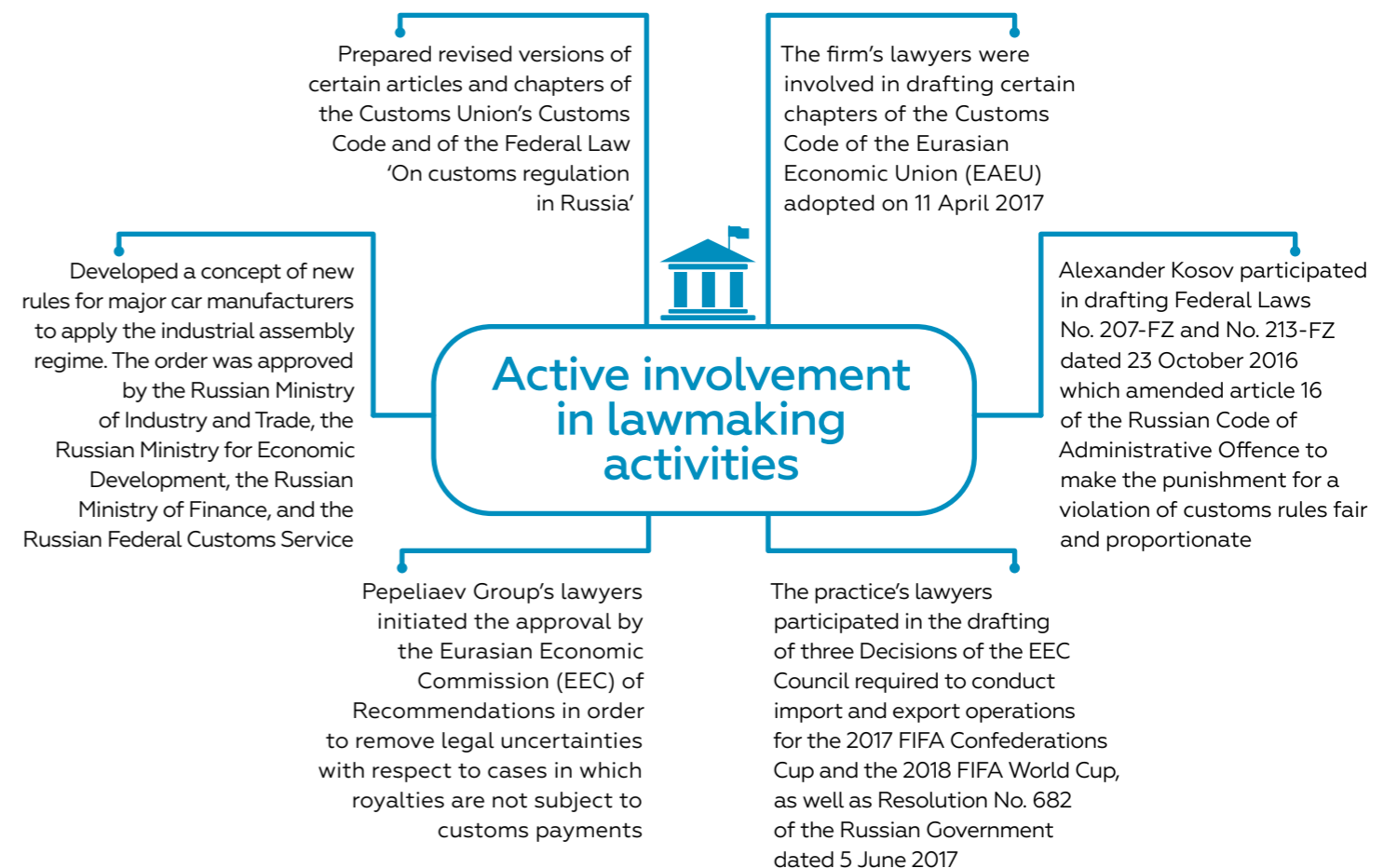
**135 projects**

**36 court cases**

(In 33 cases the courts decided in favour of our clients)

**4 criminal cases**, initiated against our clients' employees in connection with alleged customs violations

The practice's **key clients** are:



# SAMPLE PROJECTS RELATING TO FOREIGN INVESTMENTS AND IMPORT SUBSTITUTION

## 01 DEVELOPED THE OPTIMAL SCENARIO FOR THE IMPORT OF EQUIPMENT FOR A MAJOR CAR MANUFACTURER

Pepeliaev Group's lawyers developed the optimal scenario to import equipment taking into consideration its specific features, the possibility to ship it in assembled form, and contractual relations between the clients and their suppliers of equipment. Our experts also developed a scenario to import the equipment in parts and components and set up a schedule for supplies of such parts. In order to develop a fitting import model, the following factors also had to be taken in account: (i) assigning CCFT codes to the imported equipment and its parts, (ii) the possibility to apply zero import duties and VAT rates to production equipment manufactured outside Russia, (iii) whether it was necessary to obtain certificates of conformity for the equipment and its parts and components as well as special aspects of calculating their customs value, and (iv) whether it was possible to repair or recycle conditionally released equipment as well as the customs requirements when doing so.

## 03 DEVELOPING THE PROCEDURE TO REIMBURSE IMPORT DUTIES AND VAT FOR THE SKOLKOVO INNOVATION CENTRE

Instructed by the Skolkovo Foundation, the Customs Practice's lawyers drafted agreements and other documents to ensure compliance with the Russian Government's Decision No. 339 dated 5 May 2011 that established the procedure for the reimbursement of import duties and VAT amounts paid by companies involved in the incorporation and servicing of the Skolkovo Innovation Centre.

## 02 LEGAL SUPPORT IN PROJECTS TO CHANGE RATES OF IMPORT CUSTOMS DUTIES

The practice's lawyers provided legal support in identifying a special CCFT CU code with a zero import duty rate for equipment for the manufacturing of cars. The outcome of this project was that the Customs Union Commission adopted its Decision No. 852 dated 18 October 2011 'On amending the Eurasian Customs Union's Commodity Classification for Foreign Trade and changing the Unified Customs Tariff of the Customs Union with respect to specific types of containers used in the production of motor vehicles under commodity codes 8701 - 8705'. As part of this task we also implemented a project to set and extend zero customs duty rates for the compressors used to manufacture refrigerators. The outcome of this project was Decisions No. 233 and No. 83 of the Eurasian Economic Commission dated 22 October 2013 and 19 November 2013 respectively.

## 04 EVALUATING WHETHER IT WAS FEASIBLE TO ENTER INTO A SPECIAL INVESTMENT CONTRACT (SPIC) WITH THE RUSSIAN MINISTRY OF INDUSTRY AND TRADE

Pepeliaev Group's lawyers analysed the available support measures at the national and regional levels as well the conditions, risks and advantages if a SPIC is signed. Based on the results of their analysis, our lawyers provided legal support to our client during negotiations it held with its Russian partner. A business partnership agreement was entered into as a result.

# REPRESENTING A CLIENT IN CONTESTING CUSTOMS AUTHORITIES' DECISIONS

## 01 SUCCESSFULLY CONTESTING CUSTOMS AUTHORITIES' DECISIONS TO ADJUST THE CUSTOMS VALUE

The case was unique because customs authorities specified several factors as the grounds for the decisions to adjust the customs value of components for the assembly of TV sets: (i) the relationship between the seller and the buyer of goods has an effect on the value of such goods, (ii) there are conditions whose effect on the goods cannot be measured, and (iii) there is a need to include in the customs value of imported components royalties payable for using a trademark by labelling finished goods with it. At the time when the court awards were made there was not well-established case law or official explanations from competent authorities regarding royalties being included in the customs value of imported raw materials and components. Pepeliaev Group's lawyers succeeded in proving that the customs authorities' claims were ungrounded.

## 03 CHALLENGING A PRELIMINARY DECISION ON HOW TO CLASSIFY A PALM COMPUTER

Pepeliaev Group's lawyers represented in court a major producer of electronic goods. Under a preliminary decision the palm computer was assigned code 8527 13 990 0 to which a 10% duty rate applied. Owing to the efforts of our lawyers the client managed to prove that the assigned code was wrong and the customs authorities were obliged to re-classify the device with code 8471 under CCFT.

## 02 BUILDING POSITIVE CASE LAW ON CUSTOMS BENEFITS

Pepeliaev Group's lawyers successfully represented companies providing services in the area of mineral production. When contesting the decisions of the Sakhalin customs authorities regarding the application of customs duties for the contractor with regard to the goods imported for the Sakhalin-2 PSA, our lawyers managed to build positive case law for the importer which was subsequently applied to the Sakhalin-1 PSA as well. Moreover, the practice's lawyers challenged in a commercial ('arbitration') court a decision of the customs authority disallowing the application of a customs benefit with regard to equipment imported as contribution to the issued capital. Owing to the efforts of our lawyers the client managed to avoid the need to pay additionally accrued duties in the amount of RUB 20 million.

## 04 INVALIDATING A DECISION IN AN ADMINISTRATIVE OFFENCE CASE CONCERNING THE NON-DECLARATION OF GOODS

The Customs Practice's lawyers successfully represented a large distributor of equipment in Russia before the Russian Federal Customs Service and during a pre-trial procedure challenged a decision in an administrative offence case when the goods had allegedly not been declared. The Federal Customs Service held that the decision of the customs authority was unlawful and it was set aside.

# STRUCTURING TRANSACTIONS WITH RESPECT TO CUSTOMS, FOREIGN EXCHANGE, AND TECHNICAL REGULATIONS

## MINIMISING RISKS AND CUTTING COSTS

### 01 PROVIDING ADVICE ON THE CUSTOMS CONSEQUENCES OF IMPLEMENTING DIFFERENT BUSINESS MODELS

Pepeliaev Group's lawyers advised clients on a number of matters related to customs regulation, among them: (i) customs benefits applied in special economic zones, in free warehouses and in territories of advanced social and economic development; (ii) customs consequences of applying agency (commission-based) models for supplies of goods, and the use of consignment and leasing agreements; (iii) the possibility to import and export commercial cargo by branch offices of foreign companies, and the import of goods used as contribution to the issued capital of a foreign investor.

### 03 OBTAINING PRELIMINARY DECISIONS ON THE CLASSIFICATION ON GOODS UNDER THE CCFT

At the request of a US producer of computer hardware, Pepeliaev Group's lawyers provided comprehensive legal support in obtaining preliminary decisions on the assignment of CCFT codes contemplating zero import duties to various types of all-in-one PCs.

### 02 EVALUATING THE CUSTOMS AND TAX CONSEQUENCES OF RESTRUCTURING SUPPLIES OF PRODUCTS

For a number of Russian importers and producers of trademarked goods under licensing agreements, our firm's lawyers prepared opinions on whether amounts of royalties should be included in the customs value of the imported goods. In preparing the opinions our lawyers developed arguments for each company which may be put forward to affirm there is no need to include the amounts of royalties in the customs value of the goods. The opinions also provided an assessment of the risks which arise in the case of such non-inclusion. The practice's lawyers evaluated various options for including amounts of royalties in the customs value, analysed the advantages and disadvantages of each of the options, and provided advice for subsequent negotiations with customs authorities.

### 04 PREPARING LEGAL OPINIONS ON THE NEED TO INCLUDE AMOUNTS OF ROYALTIES IN THE CUSTOMS VALUE OF IMPORTED GOODS

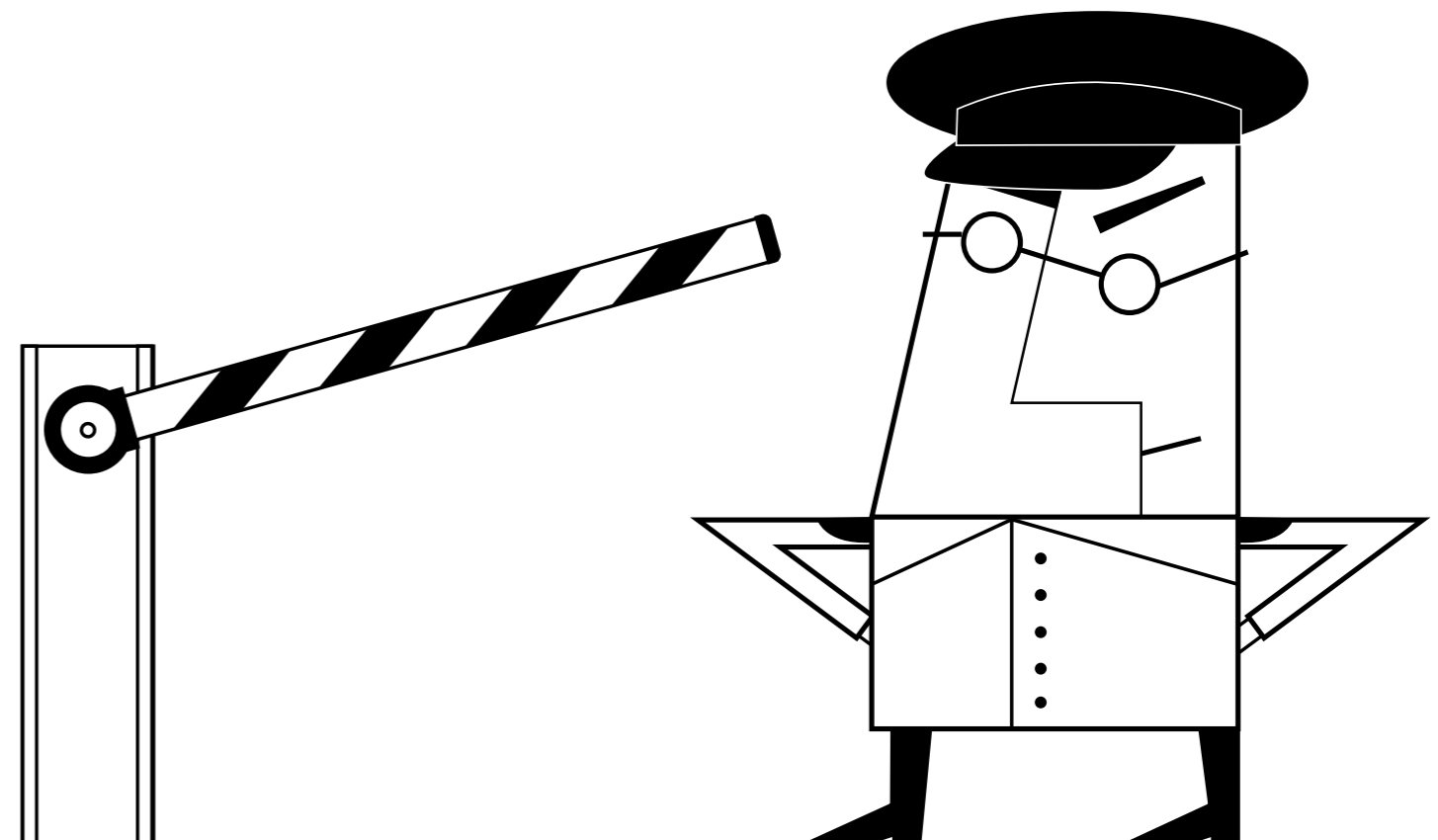
At the request of a major pharmaceutical company our practice's lawyers analysed the customs and tax consequences of a restructuring of the supplies of goods in relation to the acquisition of a new business as well as of goods supplied under three-party transactions from the EU to the CIS without them actually being imported into Russia.

### 05 CUSTOMS COMPLIANCE OF A MAJOR FMCG COMPANY

The practice's lawyers ensured that the import activities of two major Russian FMCG companies were customs compliant. Our lawyers developed recommendations for minimising customs risks, and cutting customs and other costs related to customs formalities. The client successfully implemented our recommendations.

### 06 EVALUATING THE NEGATIVE CUSTOMS CONSEQUENCES OF INCORRECT SORTING AND AN EXCESS OF GOODS

At the request of the official distributor of an international producer of electronic goods, Pepeliaev Group's lawyers evaluated the negative customs consequences of incorrect sorting and an excess of goods. The outcome of the project was that our legal experts initiated amendments being made to article 16.2 of the Russian Code of Administrative Offences regarding release from liability if a person has voluntarily made changes to a customs declaration.



# LEGAL SUPPORT DURING CUSTOMS AUDITS BEFORE AND AFTER THE GOODS ARE RELEASED

## 01 PREVENTING THE CUSTOMS VALUE FROM BEING ADJUSTED UNDER A PRE-TRIAL PROCEDURE

Pepeliaev Group's lawyers provided legal support to a Russian subsidiary of a well-known Korean car manufacturer and helped it prepare documents justifying a reduction of the purchase prices for cars. Our experts drafted responses to and comments on the customs authorities' requests, and a letter to the customs authorities regarding the pricing policy. Thanks to the efforts of our lawyers, the client managed under a pre-trial procedure to avoid having the cars' prices adjusted.

## 02 DEVELOPING A LEGAL POSITION FOR A GERMAN PHARMACEUTICAL COMPANY ALLOWING IT TO AVOID CLAIMS FROM CUSTOMS AUTHORITIES

At the client's request, our firm's lawyers prepared documents proving that the cost of imported goods was not affected by the fact that the parties under the transaction were related. Owing to this, during a customs inspection the client managed to prove substantially reduced purchase prices were related to its taking supplies from independent Russian purchasers to its official distributor.

## 03 CONFIRMING THE CUSTOMS DECLARATION OF THE GOODS IMPORTED BY THE CLIENT

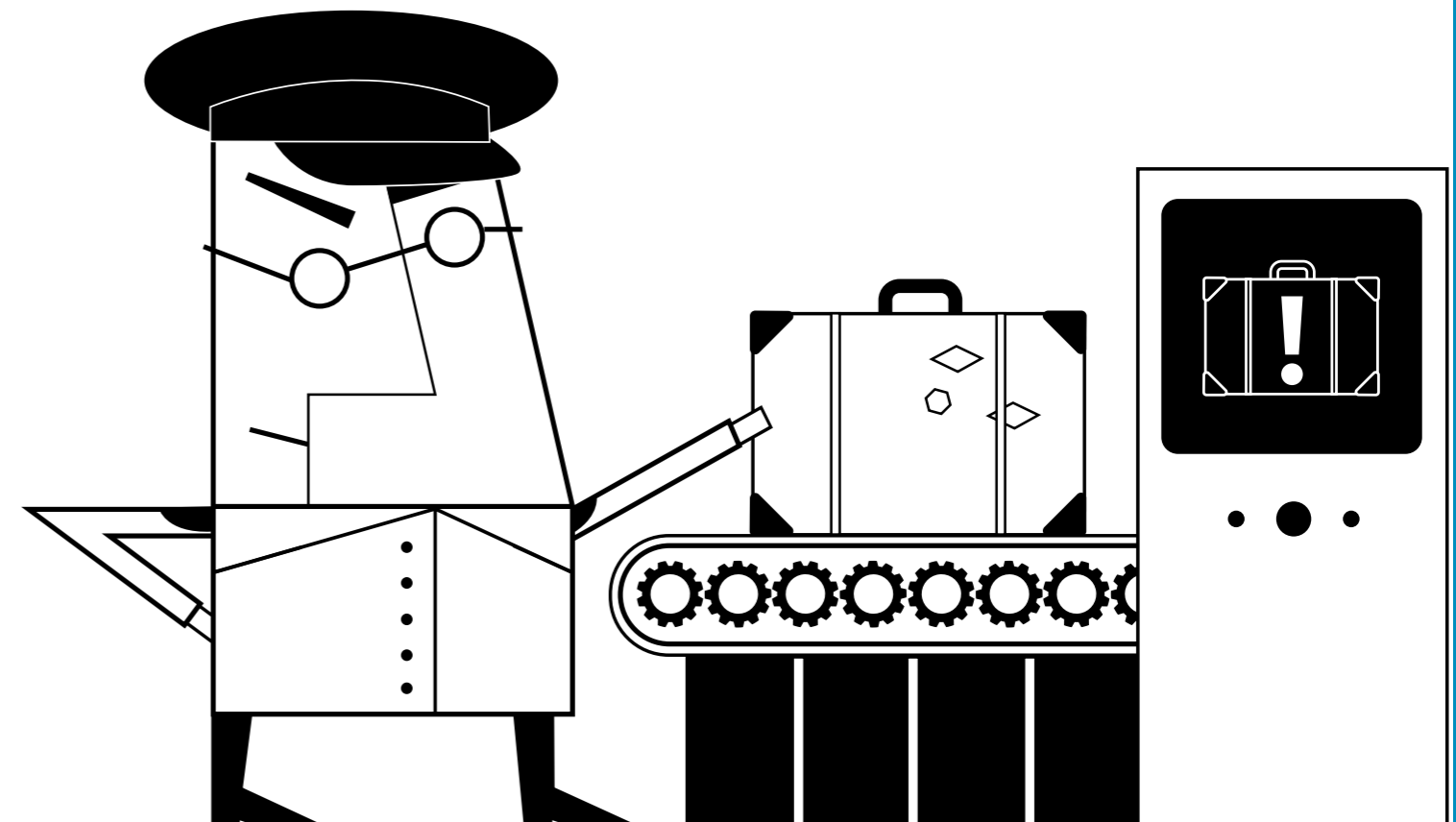
The practice's lawyers represented a supplier of telecommunications equipment before the customs authority which was inspecting the goods acquired by the client from a foreign supplier on delivered duty paid (DDP) conditions. Our lawyers managed to identify how the goods were imported and to provide documents confirming that these goods were properly declared.

## 04 SUCCESSFUL COMPLETION OF A CUSTOMS INSPECTION AND CANCELLATION OF THE SEIZURE OF GOODS

Pepeliaev Group's lawyers provided legal assistance to a major mobile operator as part of a customs inspection initiated by the Russian Federal Customs Service with respect to goods purchased by the client from other Russian suppliers. Owing to the measures taken, the conformity of the purchased goods with the customs declarations was proved and their seizure was cancelled. Our lawyers prevented the threat of the customer's business being interrupted.

"NOTABLE TEAM ACTING FOR A BROAD ROSTER OF BLUE-CHIP INTERNATIONAL CLIENTS AS WELL AS SIGNIFICANT RUSSIAN CORPORATES".

CHAMBERS EUROPE



# THE TEAM



ALEXANDER KOSOV

Partner,  
PhD in Law

a.kosov@pgplaw.ru

## Specialist area

For more than 19 years Alexander has been focusing on customs law, currency law and foreign trade regulation, including the WTO rules. He has an extensive background in customs authorities including the Legal Department of the Russian Federal Customs Service and also worked in an international auditing company.

Alexander has been providing legal assistance to clients with respect to structuring transactions and business models taking into account foreign trade regulation, possible changes of rates of customs duties, customs value, classification of goods for customs purposes, applying customs benefits and preferences, using simplified customs procedures, currency control, technical regulation, protective measures, and subsidies. He also handles challenges to the decisions of the customs authorities in pre-trial and in court proceedings, as well as challenging regulations, including before the Court of the Eurasian Economic Union.

## Key accomplishments

Alexander's professional background includes defending clients in more than 300 cases for high-level Russian and international companies.

Alexander's major projects include:

- developed a regulation regarding the industrial assembly regime for major car manufacturers and assisted six companies in entering into contracts;

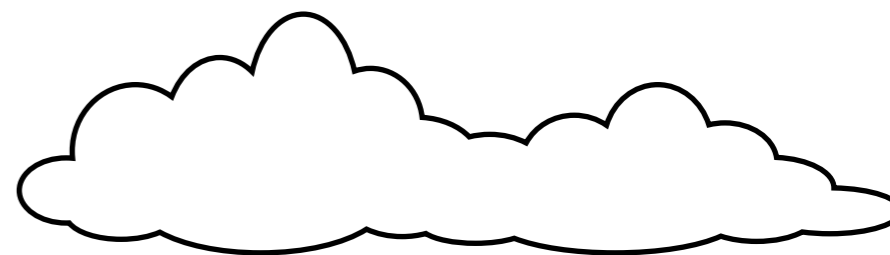
- identified a code according to the Commodity Classification for Foreign Trade with a zero rate of import duty for the manufacturing of cars;
- owing to the documents he had prepared confirming that the relationship did not influence the price of goods, we managed, at the pre-trial stage, to remove the claims of the customs authorities regarding a significant reduction in purchase prices resulting from the transfer of supply from independent distributors to the client's Russian subsidiary;
- successfully represented a major Russian manufacturer when challenging in a commercial ('arbitration') court a decision of the customs office disallowing the application of a customs benefit of around USD 20 million.

## Major clients

FIFA, Samsung, Renault, P&G, Sanofi, Sovcomflot

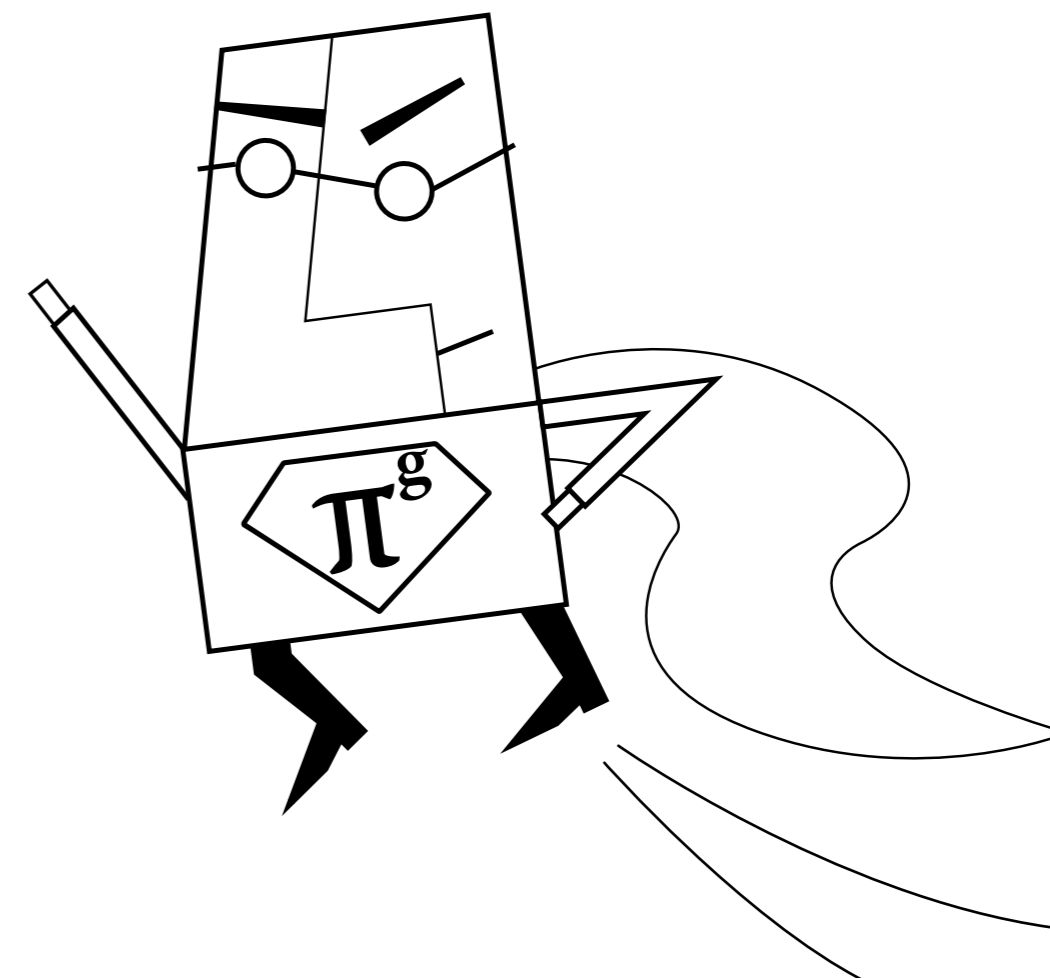
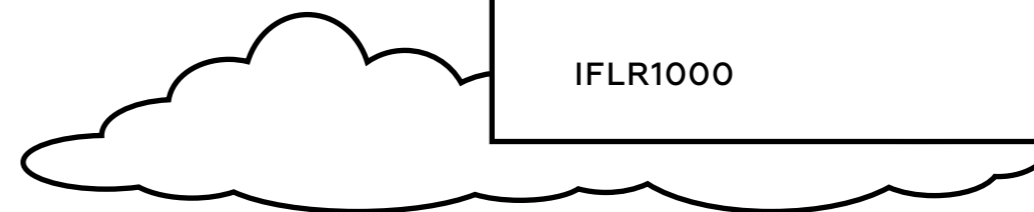
## What they say

Chambers Europe: "Clients surveyed by researchers from prominent international directories consider that Pepeliaev Group's 'lawyers dig deep to find issues that play a role in the mandate', while the team stands out because it 'is flexible and understands clients' needs'".



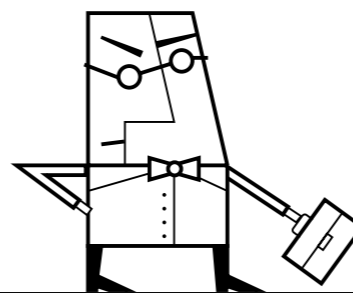
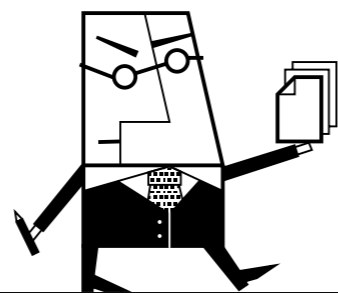
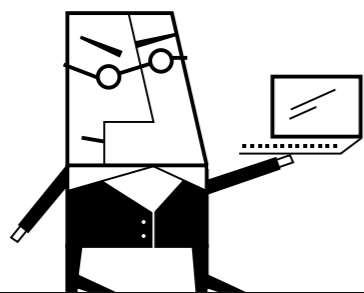
"THE CLIENTS INVARIABLY DESCRIBE THE PERFORMANCE OF THE LAWYERS THEY INTERACTED WITH AS 'EXCELLENT' AND 'IMPECCABLE'".

IFLR1000



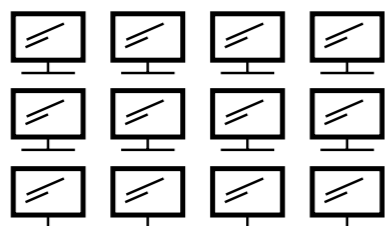


# ABOUT THE FIRM

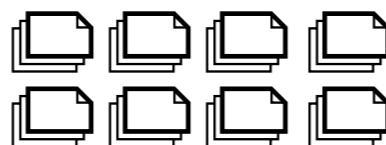


2024

**Employees**  
250



**Lawyers**  
160

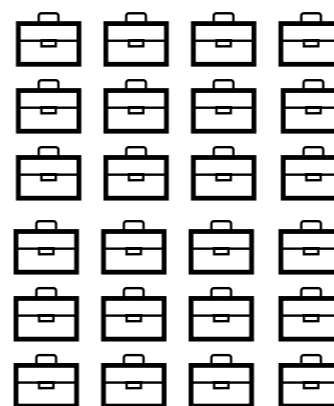


Our lawyers include twenty two Doctors of Law and PhDs in Law



Pepeliaev Group lawyers are constantly involved in drafting legislation and are called on to act as experts in state bodies, at the highest level. Thus they are involved in creating a favourable business environment in the country

**Clients**  
2000



**Practices**  
20 law practices

- Tax Law
- Currency Control
- Administrative Law
- Defence of Business
- Corporate Law / M&A
- Antimonopoly Regulation
- Commercial Law
- Banking and Finance Law
- Real Estate & Construction
- Dispute Resolution & Mediation
- International Litigation and Arbitration Practice
- Bankruptcy
- Intellectual Property
- Customs Law
- Employment and Migration Law
- Data Protection
- Legal GR and defence against illegal takeovers
- Family and Inheritance Law
- Criminal Law Defence of Business
- Services for Private Clients
- Translation and interpreting

**10 branch of economy**

- Life sciences
- Ecology
- Telecom, media and IT
- Digital Economy Legal Support Group
- Energy
- Oil and gas sector and mineral resource use
- Legal support of projects in the sphere of culture and art
- Maritime law
- Automotive industry and transportation
- Production and sale

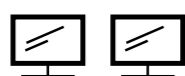
**Offices**  
8

- Moscow
- St Petersburg
- Nizhnekamsk
- Krasnoyarsk
- Vladivostok
- Beijing
- Shanghai
- Dubai

2002

The year we were founded

19



15



50



5

- Tax Law
- Customs Law
- Corporate Law
- Commercial Law
- Real Estate & Construction

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Rankings



CHAMBERS EUROPE

CHAMBERS GLOBAL

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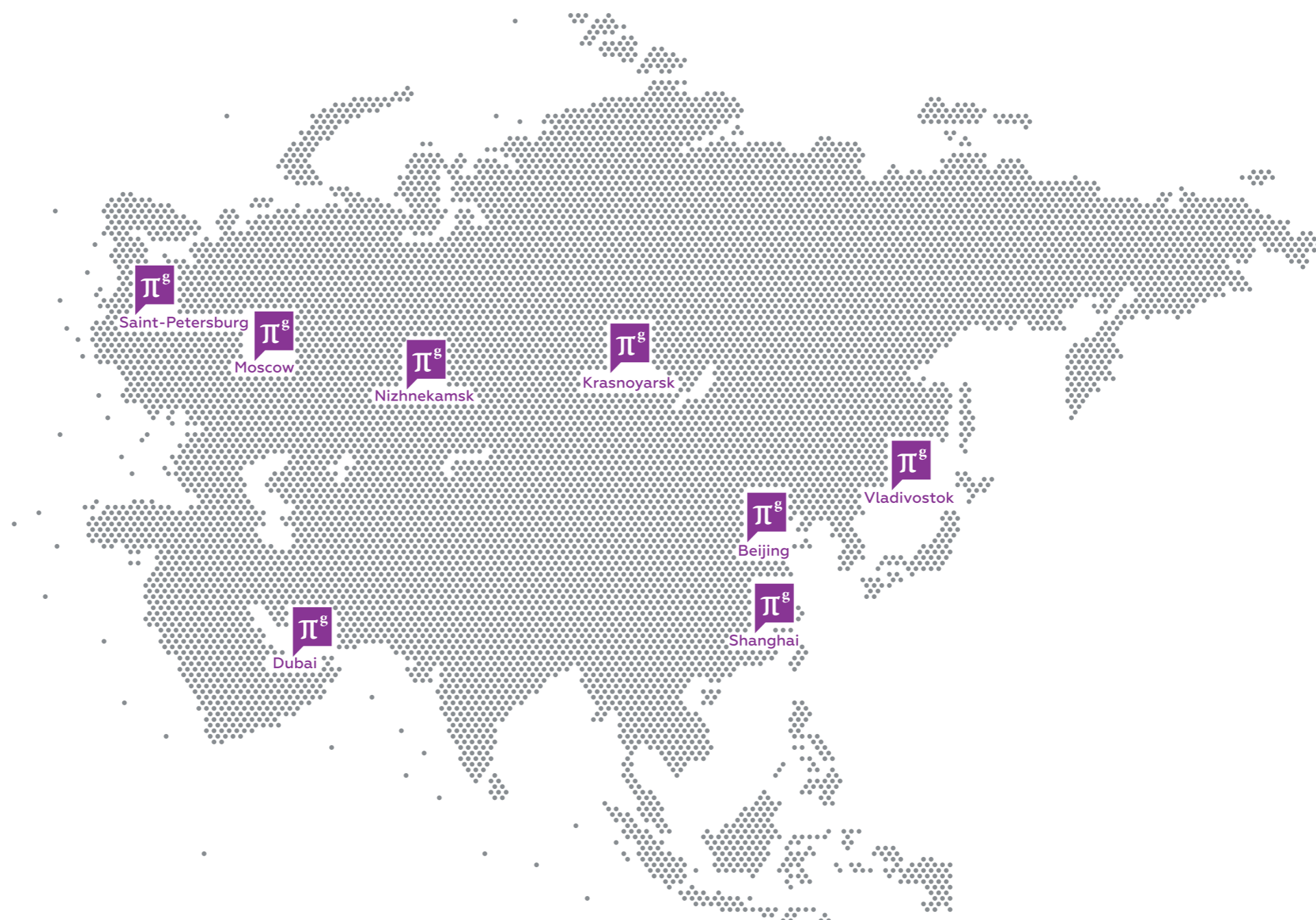
World Trademark Review

INTERNATIONAL TAX REVIEW



Best Lawyers

# GEOGRAPHICAL SCOPE OF OUR SERVICES



## REGIONAL OFFICES

Pepeliaev Group has offices in Russia located in Moscow, St Petersburg, Nizhnekamsk, Krasnoyarsk and Vladivostok.

What do our local offices offer to our clients?

- Local knowledge
- Time-efficient communication
- Favourable pricing

## CHINESE DESK

- Offices in Beijing, Shanghai.
- Support for Chinese investors in Russia and for Russian investors in China.
- We have strategic partners on the Chinese market.
- Comprehensive legal support.

## KOREAN DESK

- Legal advice to Korean companies in Russia and to Russian investors in Korea.

## MIDDLE EAST DESK

PG TAX Consultancy LLC provides services on tax structuring and tax consultancy in UAE and GCC.

- Tax structuring in the GCC states.
- Tax support.
- Tax consultancy in the UAE.
- Private Wealth Tax Services in UAE.
- Tax Compliance.
- Legal project management.

## INTERNATIONAL PROJECTS

- Pepeliaev Group is a member of the TerraLex international association of law firms.
- Pepeliaev Group is also a part of Taxand, which is a well-known tax advisory group.
- Efficient liaison with partners which are leaders in their respective jurisdictions.
- Comprehensive project management and a single manager to address all project-related issues.

