THE FINAL DOCUMENT[1]
Recommendations of the participants of the XII International Forum
"Innovative development through the intellectual property market"

Moscow 30 October 2020

The participants of the XII International Forum "Innovative Development through the Intellectual Property Market" that was held in Moscow on 30 October 2020 (on the basis of Kutafin Moscow State Law University (MSAL)) – subject to coronavirus pandemic restrictions, in person and remotely via Zoom), that represented interstate associations and state authorities, institutions of science and education, business and public organizations, mass media from 17 countries, including all EAEU and CIS member states, including via videoconference on the regional sites (on the basis of the Ural State Economic University, Yekaterinburg, Kazan (Volga region) Federal University, Kazan),

having discussed the experience and challenges of the transition to an innovative and digital economy through the formation and development of the Eurasian intellectual property market as part of the implementation of the third phase (2016-2020) of the CIS Economic Development Strategy, the Agreement on the formation and development of the intellectual property market of the CIS member states (Dushanbe, 1 June 2018), as well as the conditions and main areas of implementation of the EAEU digital agenda for the period up to 2025, the practice of applying the EAEU Customs Code, the prospects for commercialization of intellectual property in order to create a common financial market within the EAEU and implementation of activities under the common rules in the service sectors (banking sector, insurance sector, securities market services) from 1 January 2025.

noting as a positive change the consideration and implementation at the interstate and national levels of the recommendations of previous International Forums, including in the adjustment of innovative strategies, programs and policies at the national and corporate levels in the CIS and EAEU countries in the field of intellectual property (for example, in Russia, the Recommendations for the management of the results of intellectual activity in organizations are based on proposals previously prepared by the RSRIIP and repeatedly supported by both participants of the International Forum "Innovative Development through the Intellectual Property Market" and at the Military Industrial Conference "Intellectual Property Management in the Defense-Industrial Complex", which was organized by the Military-Industrial Commission of the Russian Federation and the RSRIIP,

supporting preparation and adoption of a package of interstate and national standards within the framework of the activities of the Interstate Technical Committee for Standardization "Intellectual Property" (ITC-550) and similar national technical committee (TC481) in the Russian Federation as regulators of "soft power" in the context of persistent contradictions of legislation in the EAEU and CIS countries;

welcoming the readiness of the Executive Committee of the CIS, the EEC of the EAEU, the Permanent Committee of the Union State and the national governments of Russia and other CIS and EAEU countries to use the recommendations of this Forum when preparing government decisions to increase the level of coordination and interaction of all interested parties in the development of the intellectual property market as a condition for ensuring digital leadership and competitiveness of the EEU within the framework of the new international division of labor;

taking into account the discussion that took place, **the following decisions** are unanimously made:

I. To bring public recognition to the heads of international and intergovernmental organizations (WIPO, SCO, CIS, EAEU, Union State), public authorities, national academies of sciences and organizations of Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Moldova,

[1] The final document is prepared within the framework of the scientific project of the RFBR (grant No.20-014-22008), discussed and approved at the joint meeting of the Supervisory Board and the Scientific Council of he RSRIIP with the participation of the Forum's Programme Committee, as well as at plenary and in-session meetings of the XII International Forum "Innovative Development through the Intellectual Property Market", accepted as a basis by its participants on 30 October 2020 and after the public discussion, including on the Internet, has been refined and sent to international and interstate organizations (WIPO, WTO, UNESCO, SCO, CIS, EAEU, Union State) and national authorities and the academy of sciences of the CIS and EAEU countries.

Russia, Turkmenistan, Uzbekistan for their greetings, attention and participation in the Forum, and also to the Russian Foundation for Basic Research (RFBR) – for support in its conduct (grant of the RFBR No. 20-014-22008), the Russian Ministry of Foreign Affairs and Rossotrudnichestvo, the Board of the Military-Industrial Commission of the Russian Federation and Moscow State Law University (MSAL) for their support in its preparation and conduct, as well as the RSRIIP, which turns 15 in December 2020, as the permanent organizer, acting all these years as the Directorate and the main sponsor of the Forum.

II. To hold the next XIII International Forum "Innovative Development through the Intellectual Property Market" under the auspices of the United Nations as part of the International Days of Intellectual Property on **23 April 2021** In Moscow.

To invite the governing bodies of international organizations of WIPO, SCO, CIS, EAEU, Union State, Eurasian Patent Organization, as well as national state authorities, academies of sciences and specialized organizations of the EAEU and CIS countries, organizations – members of the Forum Organizing Committee to include participation in the preparation and conduct of this event in their work plans for 2021.

III. To recommend to the Council of the Eurasian Economic Commission, as the co-organizer of the Forum, when preparing the decision of the Supreme Eurasian Economic Council "On Main Directions of the International Activities of the Eurasian Economic Union for 2021", in the framework of interaction with the international business and expert community, provide for direct interaction with the International Forum "Innovative Development through Intellectual Property Market" on topical issues of the development of Eurasian economic integration, including the formation and development of the Eurasian intellectual property market.

IV. Take as a basis the draft final document of the Forum. To instruct the Forum's Directorate to place this document on the Forum's website; the Forum's Program and Organizational Committees to finalize and generally adopt, taking into account the comments and suggestions received following public discussion; to inform WIPO and the WTO, UNESCO and the European Commission of the European Union, the SCO, the Executive Committee of the CIS, the Eurasian Economic Commission of the EAEU and the Standing Committee of the Union State, national parliaments, governments of the EAEU member states and academies of sciences on the results of the Forum's work, its conclusions and **adopted recommendations:**

1. Competitiveness strategy in the digital economy and the Eurasian intellectual property market.

Eurasian integration aims to create the Eurasian Union on the basis of the EAEU (from 2015) by 2030. Within the Union, the EAEU Customs Code has been in force since 1 January 2018, and by 2025, along with the single market for goods (since 2010), works/services (the single market for services operates in 53 service sectors and covers more than 55% of the volume of services rendered in member states), the common market of medicines and medical products (from 2017), a single electricity market, a common market for oil, petroleum products and gas, a single transport space and the development of Eurasian transport corridors should be formed; a common financial market and a coordinated agro-industrial policy.

The goal of the economic development of the CIS and EAEU countries until 2030 is to promote and sustain the quality and sustainable economic growth of member states and the Union as a whole by realizing their competitive advantages, which is ensured by the level of scientific and technical potential and the achievements of knowledge-intensive industries. According to the Main Areas of Economic Development of the EAEU (Decision No. 28 of the Supreme Eurasian Economic Council (SEEC) of 16 October 2015) and the CIS Economic Development Strategy for the period up to 2030 (Decision of the CIS Council of Heads of Government of 29 May 2020), Programs of multilateral trade and economic cooperation of SCO member states until 2035 (approved on 2 November 2019, Tashkent), innovative development and modernization of the economy should help accelerate the implementation of national plans (programs, strategies, concepts) in terms of creating conditions for innovative structural shifts (including the modernization of the economies of member states, commercialization of scientific developments), the growth of production and export of innovative products and technologies, outpacing the increase in productivity, increasing the interest of business

entities in innovative products, including those produced in member states, increased investment in high-tech sectors of the economy and the scale of the return on such investments.

In the face of new challenges, including those related to the pandemic, the prospects for global economic growth in 2020 are highly uncertain, which indicates the beginning of a global recession comparable to the financial and economic crisis of 2008-2009. In the medium term, the need for a speedy recovery of economic processes will come to the fore. The most important goal of macroeconomic policy in 2020-2021 is to maintain macroeconomic stability and the achieved standard of living in member states, as well as to lay the foundations for the advanced economic development of the Union through high-tech areas based on information technology and artificial intelligence, nano- and biotechnology, digital transformation, medical and bioengineering technologies.

The gradual exhaustion of the existing competitive advantages of member states, primarily related to the commodity orientation of economies (in 2019 more than 60 % of exports were occupied by mineral products with a low share of high-tech exports in GDP), determines the need to develop new advantages on the basis of significant competitive scientific and production potential in a number of industries.

The decision of the SEEC "On the main guidelines for the EAEU States' macroeconomic policy for 2020-2021" recommended the following measures in order to ensure competitiveness:

- *maintaining macroeconomic sustainability, including* supporting the financial sector's capacity to provide resources to the economy, including easing lending conditions for real-sector enterprises;
- *taking measures to support and increase investment, develop the scientific, technological and manufacturing capacity of the Union, including:*
  - ✓ improving the efficiency of the use of member states' budgets to improve the investment climate and activate the public-private partnership mechanism;
  - ✓ encouraging investment in research by public and private enterprises;
  - ✓ simplifying and/or abolishing administrative and other regulatory procedures in the investment sphere;
  - ✓ improving the regulatory framework of member states aimed at protection of the investors;
  - ✓ promoting cooperative projects that create value-added production and technology chains, including in high-tech sectors of the economy;
- *creating conditions to maintain stable demand, expand export opportunities and boost mutual trade, including:*
  - ✓ removing barriers, reducing exemptions and restrictions, and preventing new obstacles to the Union's domestic market;
  - ✓ ensuring fair competition in the cross-border markets of member states and its protection;
  - ✓ providing priority conditions for exporting high-tech products to foreign markets.

In the ranking *Doing Business* the EAEU ranks 31st in 2019 (in 2018 – 35), and in the *ranking of global competitiveness* of 141 countries for 2019 (113 indicators in 12 groups) from the CIS countries Russia ranks 43rd, Kazakhstan – 55th, Azerbaijan – 58th, Armenia – 69th, Ukraine – 85th, Moldova – 86th, Kyrgyzstan – 96th, Tajikistan – 104th. [2] According to the *global innovation index GII*- WIPO (based on 80 indicators for 129 countries) in 2020: Ukraine – 45th place, Russia – 47th, Moldova – 59th, Armenia – 61st, Belarus – 64th, Kazakhstan – 77th, Azerbaijan – 82nd, Uzbekistan – 93rd, Kyrgyzstan – 94th, Tajikistan – 109th. In the ICT Development *Index* (11 indicators for 176 countries) from CIS countries: 32nd place – Belarus, 45th – Russia, 52nd – Kazakhstan, 59th – Moldova, 65th – Azerbaijan, 75th – Armenia, 79th – Ukraine, 95th – Uzbekistan, 109th – Kyrgyzstan.

In many of these indicators (innovation potential, campaign competitiveness, technological development, depth of value chain, competitiveness of the production process) intellectual property is an important component.

At the same time, with the relative importance and objectivity of these rankings, the preponderance of formal indicators regarding intellectual property unrelated to the real economy (the number of patent applications filed by national applicants, the number and quality of scientific publications (the Hirsch index) that are of negative importance to national competitiveness is

[2] Global Competitiveness Index (last edition 22.09.2020). URL: https://gtmarket.ru/ratings/global-competitiveness-index/info

noteworthy. For example, for 10 years in Russia in the field of ICT, with an increase in domestic R&D costs (% to GDP) – by 10%, the number of patent applications – by 30%, the number of publications in Scopus databases – 3.8 times, the gross added value of the ICT sector decreased by 8% (from 2.8% to 2.6% of GDP).

In order to successfully develop economic relations at the regional and national levels, including innovative cooperation and safe digital development, ***objective patterns*** must be taken into account, including:

- a significant increase in the role and importance of intellectual property as a measure of the economic value of this intellectual creativity within the framework of the transition to a digital economy;
- conditionality of further innovation development by the presence of a civilized intellectual property market;
- the increase in the cost of private business in financing research and development and its high motivation to use the results of intellectual activity in the production and sale of innovative products (while maintaining the priority public funding of fundamental research within the framework of academic science);
- the structure of world trade is changing in favor of the growth of the share of the "fourth basket" – the intellectual property market, when the pricing of products created and sold (goods, works, services, securities) the share of intellectual property in the creation of added value is constantly growing (in 2000 – 4%, in 2018 – 15%, in the contest of digitization, will grow another twofold by 2030 – to 30% of the world's GDP);
- the development of the digital economy involves active use of digital technologies and information systems, which use the results of intellectual activity (protected primarily as copyright objects – programs for computers and databases, objects of related rights – the content of databases and trade secrets (know - how) – software algorithms for computers), the legal protection of which does not require government registration;
- this sector of market relations is being restructured, when in the context of the ongoing global crisis of the patent system the share of patentless sales of copyright, related rights and know-how rights is growing (during 20 years – four times, currently – more than 80%), which predetermines the need to change public policy in this area, both in assessing the effectiveness of research and development and in the choice of the method of legal protection of the received results of the intellectual activities and their subsequent use;
- between the growth of unfair competition, trafficking of counterfeit products and lack of intellectual property market, there is direct interdependence;
- since the mid-20th century (the creation of WIPO in 1967, with the unification of the Bern and Paris International Unions), the world has been centralizing and specializing in public administration of intellectual property processes.

The results of the analysis of legislation and enforcement practices in the field of production, turnover and protection of intellectual property in the EAEU and CIS countries, the ***following features and challenges*** have been identified in the transition to the digital economy:

- ✓ unlike the CIS with the forward-looking nature of the decisions taken in this area (the Concept of the formation and development of the intellectual property market of the CIS member states – the decision of the CIS GSP of 28 October 2016, the Agreement on the formation and development of the intellectual property market of the CIS member states was concluded in Dushanbe on 01 June 2018), the commercialization of intellectual property in the EAEU documents is not stated as a goal, nor as a task or direction of integration;
- ✓ the EAEU, like most of the EAEU member states, lacks the Intellectual Property Development Strategy (except for the Republic of Belarus (currently developed for 2021-2030) and the Kyrgyz Republic (from 2018 - the state program for intellectual property development and innovation);
- ✓ with an increase in research and development spending (in Russia by 20 times: from 43 billion to 850 billion rubles – 8th place in the world), the share of research and development budgeting increased from 70 to 85% (with the plan to receive the opposite results: by 2020-2024, the share of extra-budgetary funding of research and development – 50 – 75%);

✓ the expansion of corruption, especially in public procurement in the field of research and development, which over the past 20 years has become the most corrupt with the growth of budget expenditures with small business participation (expansion and distribution of latent forms and types of corruption, the presence of corruption risks in regulatory and legal acts governing procurement, technical tasks in the procurement of research and development in state corporations and state-owned companies, as well as in the sphere of state defense; lack of specialized anti-corruption training for employees of state corporations and state-owned companies).

✓ there is a discrepancy between the declared strategic goals of competitiveness and the chosen means of their achievement;

✓ patenting and state registration are mandatory for the legal protection of R&D obtained with budgetary funding for R&D;

✓ extremely low share of commercialization of rights to IP objects protected by patents remains;

✓ the early termination of patent legal protection of IP objects is increasing due to the lack of innovative motivation and balance of interests in the "triad" (author of an IP object – copyright holder – investor). During just 28 years, more than 1.4 million patents were issued in five EAEU countries, and 365,000 patents are valid, of which 0.05-2% are sold per year. With such a profitability, it is unprofitable for patent holders to pay high patent fees (in the Russian Federation more than 200 thousand rubles for the term of a patent) and these results of intellectual activity, often obtained with budgetary funding, with a possible term of legal protection of 20 years, pass into the free use mode 3 years after non-payment of patent fees. Only in the last 5 years, over 185,000 patents have been early terminated in Russia. Foreign companies often benefit from this, and patent, with minor modifications, again these technical solutions for themselves. Over the past 10 years, the entire increase in the issuance of patents in the Russian Federation – 5% was provided only by foreigners. Every second patent holder in the Russian Federation today is a foreigner, and for certain industries and types of technologies this share is even higher – up to 90%. At the same time, joint ventures are not created, licensing agreements with domestic producers are not concluded, compulsory licenses are not issued, which leads to the ousting of domestic companies from the national markets in favor of the interests of international and foreign TNCs, to scientific and technical loss, economic losses and the preservation of import dependence.

✓ there is no single methodology and methodology for developing analytical reviews on intellectual property in the EAEU and the CIS, where national official reports vary significantly in both the volume and structure of the data analysed, which in turn makes it impossible to implement unified approaches in the development and implementation of policies on these issues at the national level and their effective coordination at the interstate level;

✓ the significant lag in the establishment of regulatory mechanisms for the commercialization of intellectual property at the national, interstate and international levels, together with the low level of legal and economic culture on these issues and the lack of professional staff in this area predetermine the need for long-term (including public) investment in the development of the "fourth basket" of trade in the CIS and EAEU countries (unlike other sectors where demand creates supply);

✓ Despite the stated priority of integration through the support and development of the scientific and technological spheres, in the context of the pandemic, none of the benefits and support measures established by government decisions (subsidies, deferrals of taxes and contributions, concessional loans, etc.) extend to scientific organizations, which has put them, especially in the extrabudgetary sphere, practically on the brink of survival, up to the elimination.

A significant risk, which can have a negative impact on the implementation of most activities of the state programs of innovative development in the CIS and the EAEU, is the lack of economic indicators of the effectiveness of scientific research, because when the internal costs of research and development are increased, the main indicators of their effectiveness are the information indicators of the so-called "knowledge economy", including the number of publications and their citations, patent applications and patents, by which we notify the world free of charge about the results of these studies, while the share of budgetary expenditures in this area is growing. This means that the stated priorities of public policy in the EAEU countries and in the interstate program of innovative cooperation of the CIS with an emphasis on patenting are not real, ensuring competitiveness in this market.

The use of prior intellectual property at all stages of the innovation process from research and development to production must be accompanied by the conclusion of a licensing agreement with the rights holder (on a remunerative basis – if the result of intellectual activity is created with extra-budgetary funds), which will allow to include intellectual property in the pricing of final products. The conditions and model of intellectual property turnover should provide motivation for all participants in the innovation process (from the author – the copyright holder to the customer – investor) in improving the created technologies for the production and sale of competitive products. This goal setting is key in determining and adopting the Strategy for the formation and development of the Eurasian intellectual property market. Building common markets in the EAEU without taking into account the turnover and opportunities for the commercialization of intellectual property means condemning the EAEU countries to lose in the competition in advance.

A serious obstacle to the formation and development of the Eurasian intellectual property market can be attributing relations in the field of R&D and intellectual property to the service sector. The persistence of differences in approaches entails creation of difficulties not only in the development of the intellectual property economy, but also in the related processes of innovative motivation of authors and copyright holders of such objects, budgetary and accounting of exclusive rights and taxation in this area.

In the interests of the development of the intellectual property market as a condition for ensuring national and Eurasian competitiveness, we consider it necessary to:

1.1 Recommend WIPO, WTO and OECD, when conducting international rankings on innovation and intellectual property, to ensure the transition from information indicators that are not related to the real economy (patent applications and patents, publications and citations) to economic indicators for creating added value in intellectual property turnover in the production and sale of goods, works, services and finance.

1.2 Recommend the SEEC and the EEC EAEU, the EC and the CIS Executive Committee, as well as the national Governments of the EAEU and CIS member states to:

- *carrying out research and development with budgetary funding to develop the model Strategy for the development of intellectual property in the transition to a digital economy, on the basis of which the EAEU and CIS member states can adopt national Strategies in this area;*
- *preparation and adoption of the Strategy and programs for the formation and development of the Eurasian intellectual property market at the interstate and national levels, as an integral part of the world intellectual property market and a necessary basic condition for technological modernization and digitalization;*
- *making adjustments to the regulatory and program documents of the CIS, the EAEU and the Union countries to exclude R&D and intellectual property from the service sector, with the subsequent classification of R&D as work and the separation of the intellectual property economy into an independent market sector;*
- *transition from information indicators (publications and their citations, patents and patent applications, conferences and seminars) to economic indicators of R&D performance assessment (creation of added value, share in pricing, share in the capitalization of assets, share in attracting investments, share of royalties and etc.), which implies a significant adjustment of state strategies and programs, policies of corporations / organizations when choosing a method of legal protection for the created results of intellectual activity with budgetary funding in the scientific and technical sphere in the interests of further commercialization of intellectual property, ensuring national technological competitiveness;*
- *changes in regulatory legal acts defining publications in publications indexed in the Web of Science and Scopus as key indicators of budgetary funds utilization (for example, the Decree of the President of the Russian Federation of 7 May 2012 No. 599). At the same time, budgeting of these processes in the interests of foreign companies, as right holders of BIG DATA, should be resolutely suppressed, and not encouraged;*
- *resolving the issue of classifying the research industry in which scientific organizations operate as branches of the economy affected by the coronavirus, the list of which is approved by the national government (in the Russian Federation – the Russian National Classifier of Types of Economic Activity 72.19 "Other research and development in the field of natural and technical sciences")*

- *preparation and public discussion with the participation of the expert community of the pricing methodology for innovative products using intellectual property, and its further use for accounting and taxation purposes, including for cases of a paid / gratuitous license to use results of intellectual activity for the purpose of fulfilling a government contract.*

1.3. The SEEC EAEU and national banks of the EAEU countries, as the main regulators of financial markets, provide for:

- *when developing the program based on the Concept of Forming the Common Financial Market of the EAEU, the presence of special sections in terms of defining goals, principles and tasks of creating mechanisms for managing intellectual property in the banking sector, insurance sector and securities market services sector until 2022;*
- *in order to activate the processes of lending secured by intellectual property, increase interest and form the responsibility of credit institutions for their participation in the creation of innovative mechanisms for such lending, measures of state support, including stimulating credit institutions (improving the policy of Central Banks in terms of classifying such assets as promising in the I category of quality to reduce reserves for possible losses in credit institutions), staff training and the formation of relevant competencies in credit institutions to use such financial instruments based on the best foreign and domestic experience.*

1.4 The EEU CIS and EEU EAEU consider expanding the functions of the Eurasian Development Bank (EDB) as an investment and innovation bank to provide large pilot projects for lending secured by intellectual property in the EAEU and CIS countries.

2. Legal regulation and administrative barriers

Based on the law of information development (the higher the level of organization of social systems, the greater the role of self-regulation of these systems), to ensure uniformity in approaches to the convergence of national legal systems in the CIS and EAEU countries, three levels and the corresponding main methods and mechanisms of regulation can be distinguished: 1) with a high level of self-regulation (professional codes of conduct); 2) with an average level of self-regulation (standards as mechanisms for regulating "soft power"); 3) with a low level of self-regulation (normative legal acts prevail in regulation). With a low level of self-regulation in this area in all countries of the Union at the national and interstate levels, there is no sufficient coordination in rulemaking on general issues of Eurasian integration, which leads to the creation of artificial barriers and restrictions.

The implementation of the main areas of integration is provided by complementary mechanisms: reducing restrictions and barriers while ensuring the freedom of movement of goods, services, capital and labour; implementation of a coordinated (coordinated, unified) policy in accordance with the Treaty on the Union, including in areas of the economy with integration potential.

In accordance with the Declaration on the further development of integration processes within the EAEU (adopted in St. Petersburg on 06 December 2018), to ensure the maximum efficiency of the single market of the EAEU and the formation of high-tech and innovative Eurasian space the following elements are necessary, including:

- removing barriers and maximizing exemptions and restrictions;
- encouraging localization of production and encouraging projects that create regional production chains of added value for the development of cooperative ties between EAEU member states;
- joining the efforts of member states to encourage joint research to create and use new technologies and innovations;
- accelerated innovation and digital technologies, particularly in industry and agriculture;
- creating, through harmonization of approaches within the cross-border space of trust, mutual recognition of the legal importance of digital processes and services;
- implementation of a coordinated policy on the rules of cross-border e-commerce, stimulating business in digital format, protecting intellectual property and consumer rights of the digital market, speeding up the implementation of the digital agenda of the EAEU.

To this end, the EAEU Commission:

- carries out systematic work to improve the provisions of the Treaty on The Union (more than 500 amendments have been considered in five years);
- developed a plan to harmonize the legislation of member states in the areas specified by the Treaty of the Union;
- adopted harmonization agreements in a number of areas (e.g., the Agreement on Harmonization of Member States' Financial Market Legislation of 6 November 2018, in accordance with the Concept for the Formation of the Common Financial Market of the Union);
- in accordance with the methodology of separation of obstacles in the domestic market of the EAEU, defined the Register ("White Paper" of the EAEU obstacles) and approved the plan of measures ("road map") to eliminate exemptions and restrictions in the domestic market of the EAEU for 2018 - 2019. At the same time, it is noted that if in 2016 the Register included 64 obstacles (10 barriers, 17 exemptions and 37 restrictions), by 2020 the Register of obstacles contains 18 barriers, 14 exemptions and 38 restrictions.

Under the EAEU Treaty, member states cooperate in the field of intellectual property to address two main objectives: harmonization of legislation in the area of protection of intellectual property rights and protecting of the interests of intellectual property right holders. At the same time, the legal regime of intellectual property objects and protection of rights thereto is ensured in accordance with Article 90 of the Treaty and under the Protocol on protection of intellectual property rights (Annex 26 to the Treaty).

In the Union's law, in order to regulate the general processes within the EAEU the following documents were subsequently adopted: the Treaty on coordination of action for protection of Intellectual property rights of 8 September 2015, the Agreement on the management of copyright and related rights on a collective basis (11 December 2017, entered into force on 27 May 2019), the Treaty on trademarks, service marks and appellation of origin of the EAEU goods of 3 February 2020. The plan of measures to form and improve the unified system of regulatory and reference information of the EAEU for 2019 - 2020 (Decision of the EEC Board No. 29 of 14 April 2015 (ed. 11 February 2020), Order of the EEC Board No.114 of 16.07.2019) of all general processes in the intellectual property sector involves the preparation of documents only in relation to the means of individualization of the EAEU and ETROIS.

At the same time, the results of the five-year monitoring of the activities of the EEC and the EAEU countries in 2015-2019, which are presented in the final documents – recommendations of the participants of the annual International Forums "Innovative Development through the Intellectual Property Market" and were annually sent to all international and interstate associations, including the EEC EAEU, show that the national legislation of the EAEU countries in relation to information and intellectual property contains fundamental differences, both in their attribution to objects of civil rights, and in relation to their civil law turnover. This is an obstacle to common markets within the framework of Eurasian integration, it conflicts with the real interests of national economies and business communities and the stated goals and priorities of integration within the digital agenda.

Although from 2017 intellectual property in the EAEU is included in the list of priority areas for the development and integration of processes within the Union, and in the final documents – recommendations of this International Forum in 2015-2019 – obstacles to such integration in this area have been repeatedly pointed out and proposals have been made to develop an appropriate road map, no measures have been taken to remove barriers, exemptions and restrictions in the formation of the intellectual property market, as the market itself has not yet been formed.

The ratio of competences of the Union bodies in the Treaty is not established, which, in the absence of their exclusive competence, predetermines that all bodies can act only in accordance with the will of the member states of the Union.

In the context of centralization and specialization of public administration in the field of intellectual property in the CIS and EAEU countries, common interstate and state authorities have been created, combining the functions of administration of copyright, related, patent and other rights in relation to all key categories of intellectual property. Russia is the only country where the functions of government and regulation in the field of intellectual property are dispersed between two dozen federal agencies, among which Rospatent (the Russian PTO) is formally responsible for only five (from 1 July 2020 – six) of 20 categories of intellectual property and does not have objective information regarding other agencies, i.e. is not a competent body on all issues in this area and is not

responsible for the commercialization of intellectual property. Since no one in Russia monitors this activity, there is a misconception about Rospatent's (Russian Ministry of Economic Development) monopoly in the regulation of intellectual property, which, in many ways, is associated with existing regulatory problems and lack of results of its economic efficiency and competitiveness. This significantly reduces the possibility of coordinating positions, even within one country, on the formation of a single intellectual property market and ensuring competitive advantages of innovative development for the EAEU as a whole. In particular, the Roadmap for implementing the mechanism for managing systemic changes in the regulation of business activities "Transformation of the business climate" "Intellectual Property" (approved by the order of the Russian Government of 3 August 2020 No. 2027-r) does not correspond in its structure and content to the goals and objectives set by the President of the Russian Federation on the formation and development of the intellectual property market, and does not provide for the removal of the main regulatory barriers in the field of intellectual property and their causes in the Russian Federation and the EAEU.

This is the basis of the difficulties in developing agreed solutions to harmonize national laws in the EAEU, while other reasons are related to the organization of the commission itself. More than half of the EEC Board of Ministers and most EEC departments are involved in the formation and development of the Eurasian intellectual property market in the transition to the digital economy. Their activities and the level of competence of international officials on intellectual property law, economics and governance, as well as the mechanisms for its coordination within the Commission, are directly related to the results and effectiveness of ensuring the competitiveness of the economies of the EAEU countries and the Union as a whole.

The experience of the Union State can in many ways become a prototype for future decisions and testing within the EAEU as a "pilot model", where the priority area for cooperation between Russia and Belarus within the framework of the Union State and the convergence of legislation should be, first of all, the settlement on outstanding problems within the EAEU. This will solve the problems of accelerated integration in the conditions of time and resources deficit for the EAEU and realize the potential of the Union State as a significant tool of Eurasian integration.

The Russian experience of codifying legislation in this area, taking into account the 14-year history since its adoption, has shown that no basic task of codification has been practically solved in the same way as it was stated in 2006. Moreover, the amendments and changes introduced to the Civil Code of the Russian Federation in the subsequent period made it possible to identify certain legal provisions – "bookmarks" that were in force and are in effect in the Russian legislation in the interests of a number of countries that prefer to see Russia and other EAEU countries as buyers of imported technologies and products, not the sellers of their intellectual property. The novelties of the fourth part of the Civil Code of the Russian Federation (2008) put Russia in a very difficult position, which was especially evident from 1 January 2015 after the creation of the EAEU, which by 2030 should become the Eurasian Union with common markets for goods, labor, services, finance and intellectual property. If all over the world and the EAEU countries, intellectual property is understood as a set of rights to the results of intellectual creativity and means of individualization, in Russia it is a set of the results themselves, and the rights are called intellectual rights; at the same time, the list of intellectual property objects in the world is open, and the list of rights to them is exhaustive, while in Russia it is the other way around. Since common markets suppose uniform Eurasian rules for their regulation, there remains a need to return the provisions of Russian law in this area to the international tracks along which Eurasian integration is going.

2.1. Recommend SEEC and EEC EAEU:

- *to consider an amendment to the Treaty on the EAEU in terms of the formation and development of the intellectual property market as a general integration process;*
- *support the proposals of the Russian Federation and Belarus on preparation of the"roadmap" for harmonizing the legislation of the EAEU member states in the field of intellectual property, elimination of barriers, exemptions and restrictions of the EAEU member states in the field of intellectual property, in accordance with the methodology for separating obstacles in the EAEU internal market and with taking into account the proposed delineation of levels and regulatory mechanisms;*
- *taking into account the interdisciplinarity of legal regulation issues, provide for their consideration by the Board of the EEC EAEU in order to make a decision and establish the personal*

responsibility of EEC officials for the preparation and implementation of the roadmap for harmonizing the legislation of the EAEU countries in the field of intellectual property within the digital agenda;

- *consider creating a system for coordinating rule-making activities with the participation of representatives of all EAEU countries, including: developing criteria for assessing the effectiveness of its activities (ensuring competitiveness while reducing legal conflicts and obstacles in this area); using the experience of the Republic of Belarus in creating a system of legal informatization with ranking and identification of information resources using digital technologies and the capabilities of IIS in the EAEU; increasing the effectiveness of post-control by the EEC with the unification and harmonization of national legislation in this area.*

2.2. Recommend the Government of the Russian Federation to initiate consideration and resolution of the issue of centralization of state regulation and administration of processes in the field of intellectual property, taking into account the laws and best world practices, including the EAEU countries.

3. Standardization and intellectual property

Within a single information space, which should precede a single legal and economic union, compromises in regulation today and in the future are possible through soft regulatory mechanisms, which include standardization. Theformation of common markets for goods, works, services, finance and intellectual property involves the development and adoption of common standards.

There are 48 technical regulations in the Union, setting uniform requirements for 85% of all products sold within the Union. In order to comply with the requirements of the technical regulations, lists of standards for 8 TR EAEU have been approved, lists of standards for 26 TR EAEU have been updated, programs for the development of interstate standards for the implementation of 9 TR EAEU have been approved, and 11 programs have been amended. At the same time, the results of monitoring indicate that with regard to almost all technical regulations of the Union (or amendments thereto) the terms of preparation and approval have been disrupted by 2 years or more by the developers (execution by 30-50%).

Based on the analysis of the powers, the availability of funds and the results obtained in the field of standardization in the "triad" (the CIS, the EAEU, the Union State) revealed a paradoxical situation: Interstate Council for Standardization, Metrology and Certification of the CIS has powers, but no funds; in the EEC EAEU – there are funds, but there is no authority for standardization, in addition to technical regulations; the Union State has powers and means, but there are no standards, the adoption of which is attributed to its exclusive jurisdiction. The existing procedure for the adoption of interstate standards does not meet the objectives of Eurasian integration neither regarding the list of GOSTs and the timing of their adoption, nor in terms of application. This necessitates differentiation of these processes within the framework of the Interstate Council for Standardization, Metrology and Certification of the CIS for the EAEU, while supplementing the provisions of the Union Treaty with issues of Eurasian standardization and endowing the relevant competences of the EAEU bodies.

At the same time, if in the United States and China, in the struggle for the redistribution of the international division of labor and world markets, standardization in the field of intellectual property is highlighted among the priorities of state policy (special subdivisions have been created in state authorities with constant budget funding), then in Russia, like in other EAEU countries, this is still a public initiative. On the territory of Russia since 2009 there is a national technical committee for standardization "Intellectual Property" TC 481 with the secretariat based at RSRIIP, which has more than 20 national and interstate standards. Since most of all GOSTs have been developed in three countries (Russia, Belarus and Kazakhstan), and in the field of "Intellectual Property" there are no national TCs similar to TC 481 in other CIS and EAEU countries, the tasks of accelerated (compared to the CIS) Eurasian integration require a change in priorities development and adoption of standards (first interstate for the EAEU, then, if necessary, their adaptation to national regimes).

Taking into account that the special relevance of the standardization work, 10 amendments to the Treaty of the Union have been agreed, including the commission's competence to coordinate these works, which will allow for systematic work in this area:

3.1. Recommend the EEC EAEU, the CIS Economic Council, the CIS Executive Committee and epy Interstate Council for Standardization, Metrology and Certification of the CIS, the national governments of the EAEU member states to provide:

- *active use in the framework of rulemaking of references to the application of national and interstate standards with consideration of the issue of including standards in the list of regulatory legal acts (based on the experience of the Republic of Belarus since 2018);*
- *referring issues of management and economics of intellectual property to priority areas of standardization, ensuring national competitiveness and development of institutions of Eurasian integration, incl. when planning annual budgetary expenditures for these purposes;*
- *creation of a joint working group with the participation of representatives of the Interstate Council for Standardization, Metrology and Certification of the CIS, the EEC EAEU, the Union State to develop an agreed position and mechanisms for interaction and distribution of tasks in standardization processes and increase its effectiveness, taking into account the accumulated experience and the potential for their solution with the participation of integration associations.*

3.2 The Interstate Councils for Standardization, Metrology and Certification, on the legal protection and protection of intellectual property of the CIS, the EEC EAEU and national standardization bodies, as well as in the field of state educational and professional standards of the CIS and EAEU countries, recommend:

- *to adapt to the conditions of the digital economy, ensure the development of national and interstate standards for innovative processes and the commercialization of intellectual property in the digital economy;*
- *to create a developed system of educational and professional standards in the interests of training personnel for the functioning of the intellectual property market in the digital economy;*
- *active use of the institute of interstate standardization on the basis of the interstate technical committee for standardization "Intellectual Property" (MTK 550);*
- *taking into account the public and professional discussion that took place within the framework of the Forum sessions, support the draft interstate GOST standards: "Intellectual property. Terms and definitions "," Intellectual property. Scientific works "," Intellectual property. Scientific discoveries "," Intellectual property. Management in the State Academy of Sciences "," Intellectual Property. Service results of intellectual activity "for their revision and acceptance in accordance with the established procedure;*
- *when planning budgetary expenditures for 2021 - 2022, provide for R&D expenditures on the preparation of interstate standards "Intellectual Property. Management in a credit institution", "Intellectual property. Stock Market Management" and "Intellectual Property. Risk insurance", the development of which is provided for by the Program of interstate standardization in this area.*

4. Digitalization, artificial intelligence and intellectual property

In order to ensure the functioning and development of an integrated information system and cross-border trust space in the EAEU in 2016-2019 the first stage of the digital agenda of the Union on digital transformation modeling, initiatives and launch of priority projects in accordance with the Main areas of implementation of the digital agenda of the Union until 2025 ("Digital traceability of the movement of products, goods, services and digital assets in the Eurasian Economic Union" has been successfully completed. "Developing the concept of the digital transport corridor ecosystem of the Eurasian Economic Union"; "Introduction and mutual recognition of electronic accompanying documents in the Eurasian Economic Union"; "Eurasian network of industrial cooperation, subcontracting and technology transfer"; "A unified search system "Work without borders").

In accordance with the Union's Integrated Information System Development Strategy for the period up to 2025:

- ✓ integration segment of the Commission was created, which is a platform for forming and providing access to shared information resources;
- ✓ 48 common information resources (digital registries, lists, directories, classifiers) have been created;
- ✓ more than 50 common information interaction processes have been "digitized";
- ✓ 17 model software complexes were designed and prepared for transfer to interested member states;

✓ procedure for working out initiatives within the framework of the implementation of the EAEU digital agenda until 2025 and the list of such initiatives have been approved;

✓ a single register of electronic documents and information structures has been formed, providing any interested parties with access to descriptions, instructional and methodical documents, formats and verification services for all electronic documents approved by the Commission;

✓ Industry information systems are being implemented, including: labelling of light industry products of certain types; turnover of medicines and medical products; agro-industrial complex, it is also planned to create 6 new subsystems by 2021: integration of digital platforms; digital simulator (information-modeling complex); identification and authentication of users of the integrated system; interstate testing; storage of the integration segment; infrastructure platform.

In order to develop the cross-border trust space in 2016-2019 twelve regulations have been adopted that define the basic principles of creating and developing the cross-border trust space within the Union, including the concept of the use of services with legal validity in interstate information interaction, the Strategy for the Development of Cross-border Trust Space and the Concept of Cross-border Information Interaction. In 2019, work was carried out to ensure the possibility of cross-border interaction between business entities and individuals of the Republic of Armenia, the Kyrgyz Republic and the Russian Federation (Decision of the Eurasian Intergovernmental Council of 30 April 2019 No. 3).

At the same time, despite the achievements, within the framework of the single Union all the member states of the EAEU have multi-level strategic, policy and regulatory documents on the digital agenda, which undoubtedly complicates today and in the future their coordination and implementation with a view to the uniform competitiveness.

At the same time, the EAEU retains significant differences in the structure of the IT market, as well as all the risks of intellectual property, specified in the conclusions and recommendations of participants of the International Forum "Innovative Development through the Intellectual Property Market" in 2017-2019, including using foreign software and moving to digital economy in the EAEU and CIS countries, including joint research and development, technology platforms, engineering centers and technology transfer.

In addition, the adopted policy documents within the digital agenda, both interstate and national, continue to ignore the new intellectual property challenges associated with artificial intelligence (AI) and digital counterparts.

According to WIPO, patent applications for 340,000 inventions in this area were filed worldwide during the introduction of artificial intelligence (1956), with 85% of applications filed in two countries: the United States (more than 150,000) and China (more than 135,000). Significant areas of application of AI technologies include:

- information systems (automatic classifications and search and database analysis);
- machine translation of natural languages;
- telecommunications (computer networks, the Internet, radio and television, etc.);
- transport (avionics, autonomous vehicles, driver/car recognition systems, traffic management systems);
- life sciences and medicine (bioinformatics, bioengineering, biomechanics, pharmaceuticals, genomics, neuro and cardio robotics, etc.).

In 2019-2020 WIPO has initiated the discussion on status/regime of AI systems and their performance as a subject/object of intellectual property relations, with an emphasis on the Objects of patent law. At the same time, attention is drawn to the need to expand the subject Area of the Discussion, including objects of copyright and related rights, the Share of which is steadily growing in the Context of modern digitalization.

According to the Center for Competence of the National Technology Initiative "New Manufacturing Technologies" of Peter the Great St.Petersburg Polytechnic University (SPbPU), within the development of the digital economy, necessary and relevant processes are the transformation of the high-tech industry into the digital industry, the development and application of digital platforms, digital twins (Digital Twin, DT) real objects / products / products and physical-mechanical / technological / technological / chemical / transition to cyberphysical systems. The development and application of digital twins is an advanced driver technology, integrator of "end-to-

end" digital technologies: new production technologies (primarily, digital design and modeling, supercomputer technologies, new materials, additive technologies), big data, industrial Internet, artificial intelligence, robotics, virtual and augmented reality technologies) providing a significant contribution to the creation of globally competitive products in the shortest possible time.

These processes of digitalization are accompanied by the development of fundamentally new business processes and business models at all levels:

- the development of products based on digital twin technology in comparison with traditional approaches allows to reduce time, financial and other resource costs at times, in some cases – 10 times or more;
- depending on the emerging market conditions in high-tech markets (primarily, automotive, aviation and space industries, shipbuilding, engine engineering, oil and gas engineering and other engineering industries), the supply of products is carried out within the framework of the implementation of the triad: technological breakthrough => technological gap => technological leadership / superiority;
- in today's high-tech industry there have been significant structural changes - the shift of the "center of gravity" in the global competition to the design phase, where as much intelligence as possible is invested in a short period;
- according to the results of the Gartner survey at the beginning of 2019 (599 companies from six countries: China, Germany, India, Japan, the United Kingdom and the United States (with income over $ 50 million and the use of the industrial Internet) – 13% of organizations implementing IoT projects already use digital twin technologies, another 62% are either in the process of developing digital twins, or are planning to do so; world leaders (Siemens, General Electric, PTC, Dassault Systèmes, Autodesk, ClMdata, Deloitte, ANSYS, ESI, etc.) half of the business is in digital twins, i.e. the product / process materializes in 3-4 months when market conditions require it, which allows them to declare false goal-setting for competitors and quickly realize the true goals of ensuring competitiveness;
- IDC forecasts that by 2022, 40% of industrial Internet platform developers will integrate digital modeling platforms and technologies to create digital lookalikes, and 70% of enterprises will use digital lookalikes to model and evaluate possible scenarios, reducing the risk of hardware failure by up to 30%;
- in Russia, there are separate solutions for the development of digital twins in high-tech industries that have the potential for replication and export (in the automotive and mechanical engineering, aircraft, oil and gas and energy sectors). At the same time, in terms of mathematical modeling technologies and digital twins, Russia lags behind the world level by 5-10 years (according to 74% of experts), while the functional lag of existing domestic solutions from the best world analogues. At the same time, digital twin technologies and computer-aided design and modeling technologies are included in the top 5 technologies, the most priority ones for achieving technological leadership and the entry of Russian companies into international markets;
- implementation of a strategy to use digital twins in production and in the design process has the significant commercial impact for initiators, including in terms of competitiveness. Disclosure of the know-how used can cause significant commercial damage, which dramatically changes the structure of intellectual property, where results are protected as production secrets (know-how) and, accordingly, stored in digital twins in confidentiality mode without government registration.

In order to ensure information and economic security within the framework of the formation of a single digital industrial space of the Union:

4.1. Recommend the SEEC EAEU and EEC, the Economic Council and the CIS Executive Committee to provide priority measures, including:

- *increased coordination in adjustments (by timing, volume, priorities and indicators) of strategic, policy and regulatory documents on the digital agenda in the EAEU and CIS countries;*
- *adjustment of the decisions taken in the CIS and the EAEU and the conditions for their implementation to create a cross-border space of trust, taking into account the optimization of costs and ensuring the interests of information security of the participating countries, when the participants in these processes and the creation of the infrastructure of the cross-border space of trust are the same countries (for CIS member states this space is supposed to be built on the Internet (CIS*

Decision of 18 March 2016), and the Strategy for the development of a cross-border trust space in the EAEU does not provide for this (Decision of the EEC Board No. 105 of 27 September 2016);

- *redistribution of responsibility towards the EEC for information protection in sectoral subsystems by means of the information security subsystem of the EEC IIS EAEU integration segment when creating an integrated information system, taking into account the nature and volume of databases and information resources managed by IIS EAEU software, which is sensitive to the interests of national economies. At the same time, it is necessary to make changes to the Procedure for the transfer of software and its use, related to the assignment of rights to software in this segment of the IIS for the EAEU represented by the EEC;*
- *analysis of the reasons for the low efficiency of the use of domestic software products on a gratuitous basis within the framework of Eurasian digitalization and the development of measures to eliminate them, which implies consideration of these issues at the level of the EEC Advisory Committee on Informatization, ICT and Information Protection, as well as national IIS operators together with authorized authorities in the field of communications and security;*
- *inclusion in the "Strategic Directions for the Development of Eurasian Economic Integration until 2025" as the roadmap for the further development of integration within the framework of increasing investment activity and modernization based on the expansion of digital technologies, a set of priorities and tasks for the use of digital twin technologies and the formation of the Eurasian intellectual property market as conditions of competitiveness.*

4.2. Recommend to the national Governments of the EAEU and CIS member states to provide:

- *the presence in the provisions of the standard contract for the development (creation / modernization) of IIS of the obligations of the contractors to provide the state customers with: a list of computer programs indicating the required information (name of the computer program, copyright holder, year of creation, including the current version, name and address copyright holder (licensor, territory, period and method of use, license details), copies of license agreements for computer programs (with all annexes) that are required by the customer for the modernization and operation of the modernized (developed) subsystems and IIS components, including free of charge (accession agreements, including open license agreements);*
- *carrying out expertise in the authorized national authorities with the participation of security authorities (at the stage of coordination and approval of technical specifications) in relation to all license agreements on granting of rights to use software in the creation and operation of modernized (developed) IIS, including accession agreements on a free of charge basis, for their compliance with the rights and interests in the field of information security, as well as the requirements of legislation on intellectual property;*

4.3 Recommend to national academies of science, leading universities and relevant scientific organizations of the EAEU and CIS countries to take an active part in the UN (WIPO) discussion on the problematic issues of artificial intelligence in the field of intellectual property. Consider the following conceptual provision as fundamental: the rights of authorship and exclusive rights to intellectual property objects created using AI should be assigned to a person (team) – the developer of systems and technologies of artificial intelligence, fixing the latter as a tool of the subject of law to enhance human intellectual potential, taking into account the freedom of creativity and the envisaged additional measures of legal responsibility.

5. Intellectual property and protection against unfair competition and counterfeiting in international cooperation

The strengthening of regional ties and alliances with Russia and its strategic partners in the EAEU is met with active and serious opposition from abroad, primarily from the United States, including:

- ✓ creation of alternative partnerships (Eastern Partnership, Trans-Pacific Partnership - TPP) economic agreement;
- ✓ preparation and implementation of plans for so-called "color revolutions" by direct intervention from abroad in the internal policy of a number of the CIS and EAEU countries;
- ✓ activation of activities in national government bodies and non-governmental organizations to preserve existing false priorities and indicators of innovative development through ratings of information indicators (publications, citation, patent applications and patents) instead of indicators of

economic efficiency;

- ✓ increase in the "grey" exports of domestic technologies obtained with budget financing in the EAEU countries in order to maintain import dependence in these countries;
- ✓ developing and imposing new international rules and standards on other countries that allow the United States to maintain its monopoly and prioritize its interests, including in world trade within the WTO;
- ✓ monopolization of global collection, processing, analysis and aggregation of scientific and scientific and technological information, information on academics and scientific schools;
- ✓ continuation of the policy of sanctions not provided by international law in 2014-2020 in the context of the declared political, information and economic war on the part of the United States, the EU, Canada and a number of other countries with a target focus on the high-tech sector of the economy in Russia and other EAEU and CIS countries participating in interstate cooperation.

In the field of scientific activities carried out by scientific and educational organizations, incl. with government support, a situation of false competition has developed, when, on the one hand, they are forced to bear the ever-increasing costs of translation into foreign languages and subsequent publication in foreign publications of the results of their intellectual activity (thereby ensuring the priority development of foreign scientific publishing houses and science in foreign countries), and on the other hand, they increase the financing of purchases associated with the acquisition of access to relevant international databases. At the same time, national abstract databases and related technologies do not develop or develop extremely slowly, and the results of intellectual activity obtained with state support are not properly protected. Based on the strategy of ensuring world-class research and development and global competitiveness by 2020 in accordance with national scientific and technological priorities, as well as national Strategies for the development of competition and antimonopoly regulation in the EAEU member states, competition in science is a way to fight for resources; a way to stimulate an increase in the effectiveness of activities of subjects of the scientific and technical sphere, as well as a key motivation for their innovative behavior.

The main negative consequences of using indicators of information transparency (the number of publications and their citation, the number of patent applications and patents) in the CIS and EAEU countries as the main target indicators include the failure to achieve the key goals of innovative development and ensuring the competitiveness of domestic developments and innovative products created on their basis, national right holders and manufacturers. *As a result, declaring a strategy of innovative development, in fact, we are building an "original" economy based on the export of raw materials (information) and the import of technologies, often based on the knowledge of domestic scientists*. Thus, the EAEU and CIS member states finance the innovative development of foreign countries from the pockets of their taxpayers, often to the detriment of their own national interests.

For the period 2016-2019 the following documents were adopted on issues of customs regulation: the Customs Code of the Union as the basis of economic associations (297 issues are referred to the competence of the Commission, where 183 are new competences) and 277 acts of the Union authorities aimed at simplifying and accelerating customs procedures and ensuring uniform law enforcement practice in the member states. At the same time, the effectiveness and feasibility of the decisions made remain low. An example is the situation with ETROIS. Over the past 10 years, in accordance with the Agreement on the Unified Customs Register of Intellectual Property Objects of the Member States of the Customs Union dated 21.05.2010 more than 10 decisions of the Union's authorities were adopted (including the Decisions of the EEC Board No. 29 of 14 April 2015, No. 35 of 6 March 2018, No. 174 of 30 October 2018, No. 114 of 16 July 2019, No. 148 of 2 September 2019). However, as of 30 October 2020, there are no registered intellectual property objects in ETROIS.

In accordance with the Treaty on the EAEU (Appendix No. 26) and as a result of the entry into force of the new Customs Code of the EAEU from 1 January 2018, while maintaining national legal regimes within the five EAEU member states, three principles of exhaustion of exclusive rights to intellectual property are in force: international, regional and national. Under these conditions, the import from abroad to the EAEU countries by importers of original goods, for example, marked with the trademark of the right holder, but without his permission, generates a conflict of interests between importers and right holders claiming absolute powers to control parallel imports, and allows foreign suppliers to use unfairly the exclusive right to restrict the import of specific goods into the Eurasian

market or to implement a pricing policy of overpricing in this market. In the context of a single customs territory and a single economic space of the EAEU, the presence of national registers in each state with different approaches and procedures for their maintenance and the actual absence of a single register creates the preconditions for the growth of counterfeit goods and smuggling through the single customs border in the EAEU.

The problems that have accumulated in the EAEU member states in the field of accreditation and conformity assessment are not only not being resolved but are also greatly aggravated. Insufficient control on the part of the authorized bodies of the Union countries over the issuance of certificates for serially produced foreign products led to the fact that the EAEU practically “opened” its market for imported goods. In the absence of coordinated real measures in the EAEU countries to counter the circulation of counterfeit imported products for third countries, favorable conditions for "free trade" have been created in the Union market, given the presence of a number of barriers for the industry of the EAEU countries.

Based on the analysis of legislation and law enforcement practice in the field of combatting the production and circulation of counterfeit products in the EAEU countries in 2015-2019, it can be concluded that there is no objective picture of understanding the volume and structure of counterfeit products at the interstate level, which creates the basis for the continuation of unfair competition. The so-called annual counterfeitness ratings compiled by the International Intellectual Property Alliance (IIPA, USA) allow the US Foreign Trade Committee and the US Department of State to include a number of EAEU, CIS and BRICS countries in special sanctions lists and thereby ensure unfair competition realization of their national interests in these countries. This practice is in line with the official US development strategy, where the threat of competition in the field of intellectual property until 2025 is designated as one of the first security priorities, but cannot be supported in the EAEU countries.

The unified policy of combatting counterfeiting in the EAEU involves the elimination of legal differences in the EAEU in this area, including issues of understanding the institution of counterfeit and methods of protection against it; mechanisms of civil and customs protection of intellectual property. With the adoption of the fourth part of the Civil Code of the Russian Federation from 1 January 2008 in Russia, a different, in contrast to international law and other EAEU countries, model of the state's attitude to counterfeit products is being implemented (expanding the list of intellectual property objects, but limiting the list of infringed rights to these objects during circulation of goods or with their use). According to Art. 1252 of the Civil Code of the Russian Federation, any tangible media containing any protected results of intellectual activity or means of individualization in violation of only the exclusive rights of right holders are recognized as counterfeit. At the same time, the Code on Administrative Offenses of the Russian Federation and the Criminal Code of the Russian Federation retained the previous legal model of protection against counterfeit, according to which it is possible to bring to administrative and criminal liability for counterfeiting only for 5 of 20 categories of intellectual property objects.

Despite the unity of the economic space of the EAEU member states, differences in levels of administrative and criminal responsibility for unfair competition related to the use of intellectual property (RID) are also critical under national *law*. Thus, at present unfair competition with the use of RID (without taking into account the rules on liability for intellectual piracy) can be considered as a crime only in the Republic of Kazakhstan (Article 221 of the Criminal Code).

Despite the unity of the economic space of the EAEU member states, differences in the levels of administrative and criminal liability for unfair competition associated with the use of the results of intellectual activity are also critical under national legislation. So, at present, unfair competition with the use of results of intellectual activity (without taking into account the provisions on liability for intellectual piracy) can be considered as a crime only in the Republic of Kazakhstan (Article 221 of the Criminal Code of the Republic of Kazakhstan).

In order to ensure uniformity of approaches to resolving conflicts of private and public interests in antimonopoly regulation, in the interests of creating a new, more rational international economic order, as well as to reduce the level of corruption in public procurement in the field of R&D, to prevent unfair competition under the guise of combating counterfeit goods, it should be considered necessary:

5.1 To confirm the relevance of the conclusions and recommendations of the participants of the XI International Forum "Innovative Development through the Intellectual Property Market", held on 23 April 2019 within the framework of the International Intellectual Property Days under the auspices of the UN, including on the harmonization of legislation.

5.2 Confirm the relevance of the conclusions of the Forum in 2010-2019 regarding the following: in order to prevent unfair competition carried out under the guise of combating counterfeiting and to create a new, more rational international economic order, it is necessary to move to a single transparent and generally accepted methodology and methodology for measuring the level of counterfeit in different countries. Objectification of counterfeit and unfair competition in all its manifestations should be based on a clear normative classification of offenses and the definition of their exhaustive comparable national lists (civil tort, disciplinary offenses, administrative offenses and crimes) and unified statistical accounting regarding the illegal use of intellectual property in circulation goods, works, services, finance, as well as in the course of the circulation of exclusive rights to the results of intellectual activity obtained / used in the framework of R&D, incl. with international cooperation.

5.3 Recommend the SEEC and the EEC EAEU, the CIS Economic Council and the CIS Executive Committee, the CIS interstate councils on legal protectionof intellectual property, on antimonopoly policy, on standardization, metrology and certification, to the national parliaments and governments of the EAEU member states:

- *to extend antitrust regulation to the field of intellectual property associated with abuse and the threat of monopoly use of the results of intellectual activity when such goods (works, services) are put into circulation, including supplement sub. 1 p. 2 Art. 76 of the Treaty on the EAEU, indicating such a form of unfair competition as unfair competition using the results of intellectual activity;*
- *provide, when planning budgetary expenditures for 2021-2022, expenditures on research and development work on the preparation of the interstate standard "Intellectual Property. Antimonopoly Regulation and Protection against Unfair Competition"; as well as on the preparation of national and interstate standards for determining the level of counterfeit in the Russian Federation and the EAEU countries, containing the principles, main criteria and indicators, institutions and mechanisms for measuring the level of counterfeit by types of goods, works, services within the common economic space of the EAEU; the rating structure and monitoring bodies for measuring the level of counterfeiting as a powerful lever to suppress unfair competition and ensure the priority development of national, Eurasian and regional intellectual property markets;*
- *to support the initiative of the Scientific Council of the RSRIIP to create a permanent working group of experts carrying out anti-corruption expertise of technical specifications and other procurement documents in the field of R&D within the framework of integration associations (at the interstate level);*
- *taking into account the results of the public and professional discussion within the framework of the specialized session of the Forum, to approve recommendations on identifying standard models for implementation of corruption-related risks in public procurement in the field of R&D and to support the initiative to prepare, on their basis, together with the Accounts Chamber of the Russian Federation, Standard Regulations for Controlling Measures for Control and Accounting Bodies.*
- *to propose to include in the program of national and interstate standardization for 2021-2022 development of draft GOST R and GOST "Corruption risks and typical corruption models in the field of public procurement for R&D and their prevention (government customer / fund – head executive – corporation – company with state participation – contractor)" with funding from the budget;*
- *to conduct a public discussion and public examination of the drafts of these documents within the framework of the next Forum and the International Forum "Anti-counterfeitin".*

5.4 Recommend to interested state authorities of the EAEU and CIS member states:

- *take into account the conclusions of this Forum when developing and implementing plans ("road maps") for the development of competition in the field of science and education;*
- *provide for the development and implementation of an educational program for advanced training on the topic: "Prevention of corruption risks in procurement in the field of research and development and R&D in state corporations and state-owned companies".*

6. Management and personnel for the intellectual property market

Among the tasks of Eurasian integration on the basis of ensuring competitive advantages in the field of scientific and technological development, the most important tasks for the intellectual property market are management and investment, interaction and cooperation, partnership and integration.

Among the most significant risks of forming an effective modern management system in science, technology and innovation, ensuring the investment attractiveness of the research and development sphere in the implementation of intellectual performance results should be:

risks of strategic planning associated with the mismatch in terms and criteria for assessing the implementation of interstate, national and sectoral strategies, government programs, programs for long-term and innovative development, with the predominance of information indicators (publications, patent applications and patents) instead of economic ones (creating added value in the turnover of intellectual property in final products, works / services);

legal risks associated with the imperfection of the regulatory legal framework that regulates measures of state support and forms the necessary and sufficient institutional conditions for the implementation of the chosen development scenario;

organizational and professional risks at the level of sectoral and corporate governance associated with the lack of highly qualified personnel (in economics, law and intellectual property management) in industrial and scientific organizations, as well as with the need to retrain existing specialists; improve the intellectual property management system to implement targeted activities.

Most enterprises and organizations in the EAEU and CIS countries still lack a unified system for managing the life cycle of intellectual property from the selection of the result of intellectual activity and their expertise to their assessment, insurance and commercialization of exclusive rights as part of the use of previous intellectual property at all stages of the innovation process and ensuring balance of interests and motivation of its participants. In Russia, out of 37 key performance indicators (KPIs) used in state corporations (state-owned companies of the 1st level), 6 indicators are related to R&D (the most often used ones are R&D costs in % of revenue, own R&D costs, share of innovative products in total sales) and to intellectual property – 3 indicators (number of patents, number of IPOs (absolute, per year, growth) and the number of implemented IPOs). At the same time, attention is drawn to the lack of unified approaches to organizing an intellectual property management system, both at the corporate and industry levels; in the strategies and programs of innovative development of corporations and companies with state participation, data are often falsified on key performance indicators (in particular, internal expenditures are called R&D expenditures, with real absence or significantly lower volume of the latter).

Transnational sectors of the economy are of fundamental importance for Eurasian integration and industrial cooperation, including energy, transport, aerospace, shipbuilding and nuclear industries, which, in fact, are the infrastructure for ensuring overall Eurasian competitiveness.

In the rocket and space industry, the corporate management system for intellectual property includes several centers of competence, the powers and functions of which are duplicative in a number of positions (the industrial center of intellectual property (OCIS) – on the basis of JSC “Organization” Agat”, the Center for accounting and analysis of RNTD – in state corporation Roskosmos and the departmental information and analytical system (VIAS) RNTD – on the basis of JSC “TsNIIMash” in the period 2005-2017, the functions of which after reorganization with the participation of OCIS turned out to be unrealizable). Since JSC "TsNIIMash" is defined as the head organization for the development of terms of reference for the planned work within the framework of the federal space program and the state defense order, it is advisable to return the competence for maintaining the VIAS RNTD to this organization.

Based on the results of a comparative analysis of assessments of the application of KPIs in innovative development programs, attention is drawn to fundamental inconsistencies in the assessments by corporations and the self-assessment of the organizations themselves on these issues (this is most typical for the state corporations Roscosmos and United Shipbuilding Corporation (USC)), as well as on the part of the Interdepartmental Commission on Technological development under the Government Commission for Modernization and Innovative Development of Russia (in relation to the state corporations USC and Rostatom). The Ministry of Economic Development of Russia recommended the practice of the state corporation Rosatom for implementation in other state

corporations of the country, as the best practices for implementing innovative development programs in terms of intellectual property. At the same time, following the results of the audit by the Accounts Chamber of the Russian Federation of the results of the inventory of the results of intellectual activity, created during R&D as part of the implementation of the federal target program "Nuclear Energy Technologies of a New Generation for the Period of 2010 - 2015 and for the Perspective until 2020", that was carried out in the corporation, it was found that "the commercialization of rights to the results of intellectual activity created under the program does not occur, there is no proper independent control at the state level associated with the timely registration of the results of intellectual activity, as well as with the assessment of their possible involvement in the economic turnover".

The problem of accounting for the results of intellectual activity and rights thereto is especially relevant for the formation of a competent accounting policy and the development of management decisions in this area in order to diversify the production of the defense industry as a condition for ensuring national competitiveness (increasing the share of high-tech civilian and dual-use products in the total volume of defense industry products (2019 – 22 %, 2030 – 50%).

The transition from many registers and forms of accounting for R&D in various departments to maintaining a unified register of R&D and received RNTD (Ministry of Education and Science of Russia) and a unified register of the military, special and dual-use results of intellectual activity (Rospatent) did not solve the main issue: how these results of intellectual activity obtained from budgetary funds can be used in the production of innovative products. The created interdepartmental information system of the EIB RNTD involves the integration of more than 20 departmental information systems / subsystems, where the legal status of operators of information systems, the legal regime of accounting and use of objects (the ratio of technologies with critical and basic technologies, with the results of intellectual activity and design documentation), and also standardization of rules and procedures for their interaction in multiplicity conditions.

There is still a gap between the registers of the results of intellectual activity (Rospatent and the Russian Ministry of Education and Science); information about the results of intellectual activity (government customers) and documentation containing the results of intellectual activity themselves. The reasons for this are the absence of specialized structures and trained specialists in all government departments; uniform procedures and rules for access to this information; a unified methodology and techniques for comprehensive (technological, legal and economic) expertise to identify, identify RIA contained in the documentation, allocate rights to them and their legal protection. In addition, in accordance with the Decisions of the Eurasian Intergovernmental Council No. 9 of 10 September 2015 and the Council of the EEC EAEU No. 142 and No. 143 of 21 December 2016, it is envisaged to create a Eurasian network of industrial cooperation and subcontracting, which should become a mechanism for building cooperative ties between industrial enterprises of the EAEU states, involving small and medium-sized enterprises in production chains.

The problem of interest in the search, development and application of innovative technologies for the safe and effective solution of global problems at the regional level remains urgent, primarily on the part of regional authorities. The striking example is the situation in the Republic of Crimea, where the energy and transport problems in 2014-2020 were resolved only by the efforts of the federal center. Concern is caused by the preservation of the previous approach of the republican authorities in solving the problem of water supply, where activities aimed at "using" 50 billion rubles from the federal budget have intensified only in 2020, with an emphasis on extensive methods (including transfer of water from rivers, new artesian wells, airborne clouds), which can lead to a complete depletion of the water sources of the peninsula, their further salinization and changes in the ecological situation.

In order to overcome the formalism and increase the role of government bodies and boards of directors of companies and their effectiveness in solving the problems of commercialization of intellectual property in the framework of innovative and digital development:

6.1. Recommend the national governments of the CIS and EAEU countries to adopt directives when making decisions at meetings of shareholders of companies with state participation, as well as relevant documents of the regulatory legal level, including measures such as:

- *adjusting strategies and programs for long-term and innovative development of companies, taking into account both national and interstate sectoral strategies and programs, and regional*

documents in this area, highlighting the commercialization of intellectual property as a priority (strategy committee);

- *creation of a system for identifying, assessing and managing intellectual property risks, including within the framework of innovation, investment and budgetary policies (risk management committee, audit committee);*
- *change of key performance indicators (KPIs) in the field of intellectual property from informational to economic (remuneration committee, committee on nominations);*
- *empowering an independent director to determine the intellectual property management policy and creating a special committee within the structure of the Board of Directors, that ensures continuous assessment of indicators of the economic efficiency of using the results of intellectual activity obtained during R&D and the intellectual property management system (committee for intellectual property management);*
- *conducting, within the framework of the effectiveness audit, a mandatory comparative analysis of performance assessments by organizations and integration structures – objects of control, departmental control bodies and national supervisory bodies, and the EEC.*

6.2. The Eurasian Intergovernmental Council, the EEC EAEU and the Government of the Russian Federation shall provide for amendments in the documents on the mechanisms of interaction and integration of the Eurasian network of industrial cooperation and subcontracting and the MIS EIB RNTD, which is especially important in the framework of the diversification of production of Russian defense industry enterprises for the production of civilian products and their sale, primarily for EAEU markets.

6.3. National and sectoral associations of industrialists and entrepreneurs, chambers of commerce and industry and integrated production structures of the EAEU and CIS countries in the formation of plans and policies for the period up to 2030 provide as priorities:

- *ensuring an effective accounting policy in terms of technologies and intellectual property for the subsequent active implementation of domestic technological innovations using intellectual property at the corporate and sectoral levels (for example, in the oil industry, which increase the oil recovery rate at existing fields from the current 27-30% to global 35-40% and ensuring the development of hard-to-recover oil reserves);*
- *changing the criteria and methods for evaluating intellectual property, including in the activities of independent appraisers and their self-regulatory organizations, taking into account changes in the structure of the intellectual property market and increasing the importance of copyright, related rights and production secrets (know-how) and rights to them in economic and civil law turnover;*
- *active use of all methods and forms of commercialization of intellectual property through the creation of added value, including when pricing goods, contributing to the authorized capital of an enterprise (additional capitalization), lending secured by intellectual property, using intellectual property as an investment resource.*

6.4 To solve the global problem of water supply, taking into account the uniqueness of Crimea and its importance as the world health resort and cultural heritage site, recommend that the Government of the Russian Federation, together with the authorities of the Republic of Crimea and the city of Sevastopol, support the development and adoption of a comprehensive program, the strategic goal of which is a complete reorientation to internal resources subject to the strictest savings with the effective use of innovative technologies in the following areas:

- *Replacement of the old water supply system using new materials (according to expert estimates, losses amount to 40-60%) with decentralization of the water supply system;*
- *system of collection, distribution and use of sludge and wastewater (for example, Eritrea);*
- *water purification and redistribution systems using "recycled" water (for example, Israel and Jordan);*
- *construction of local seawater desalination plants in coastal cities;*
- *formation of a water-saving mentality among the population and business entities through propaganda and economic incentives.*

6.5. To confirm the recommendations of the participants of the International Forum "Innovative Development through the Intellectual Property Market" in 2017-2019 with regard to monitoring information on the work of national universities in this area, the creation of basic and network

special departments; ensuring interuniversity and interregional cooperation in creating a system of training and retraining of personnel for the field of intellectual property; formation and implementation of the state order in the field of scientific research in the preparation and defense of dissertations for the degree of doctor and candidate of sciences, the work of postgraduate and doctoral studies with their budgetary funding; dissemination of this experience through interstate bodies, including the EEC EAEU, and specialized scientific journals, including "Intellectual Property Law".

6.6. To increase the level of literacy in the field of intellectual property, it is necessary to make appropriate adjustments to the state educational standards in the field of higher education for bachelor degrees in "Economics", "Management" and "Jurisprudence": to provide in the basic part of the curriculum for bachelor degree the compulsory discipline "Fundamentals of Intellectual Property", to introduce specific profiles on intellectual property corresponding to these areas (in "Economics" – the profile "Economics of Intellectual Property"; in "Management" – the profile "Management of Intellectual Property"; in "Jurisprudence" – profile "Intellectual Property Law").

The continuation of the declared course towards Eurasian integration, where digitalization, standardization and the intellectual property market are the components of a single competitiveness, requires all participants to understand the conditions for its implementation, to determine their personal responsibility for achieving the planned results.