



# TRADE POLICY DEVELOPMENTS PAPER NO. 20

## REPORT ON RUSSIA (for the period January – March 2012)

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## **Abbreviations**

ACTA	-	Anti-Counterfeiting Trade Agreement
AD	-	Anti-Dumping
AID	-	U.S. Agency for International Development
AIDCP	-	Agreement on the International Dolphin Conservation Program
APEC	-	Asia Pacific Economic Cooperation
ATPA	-	Andean Trade Preference Act
AusAID	-	Australian Agency for International Development
AWSB	-	Athi Water Services Board
BIT	-	Bilateral Investment Treaty
CBP	-	Customs and Border Protection
CBR	-	Central Bank of Russia
CCC	-	Commodity Credit Corporation
COMESA	-	Common Market for Eastern and Southern Africa
CRS	-	Congressional Research Service
CTAC	-	Commercial Targeting and Analysis Center
CVD	-	Countervailing Duties
DEIP	-	Dairy Export Incentive Program
DSB	-	Dispute Settlement Board
EAE	-	Energy Allied Egypt
EEP	-	Export Enhancement Program
EIU	-	Economist Intelligence Unit
EPA	-	Environmental Protection Agency
EU	-	European Union
Ex-Im Bank	-	Export-Import Bank of the United States
FTA	-	Free Trade Agreement

GATT	-	General Agreement on Tariffs and Trade
GDP	-	Gross Domestic Product
GOT	-	Government
GSP	-	Generalized System of Preferences
ICT	-	Information and Communications Technology
IMF	-	International Monetary Fund
IP	-	Intellectual Property
PNTR	-	Permanent Normal Trade Relations
SPS	-	Sanitary and Phytosanitary Measures
STEP	-	State Trade and Export Promotion Program
SWFs	-	Sovereign Wealth Funds
TAA	-	Trade Adjustment Assistance
TBT	-	Technical Barriers to Trade
TPP	-	Trans-Pacific Partnership
TRIPS	-	Agreement on Trade Related Aspects of Intellectual Property Rights
TRQ	-	Tariff-Rate Quota
US	-	United States
USTR	-	United States Trade Representative
WIPO	-	World Intellectual Property Organization
WTO	-	World Trade Organization

## **Executive Summary**

- Russia reported a trade surplus equivalent to 19.8 Billion USD in February 2012. Metals and energy make up more than 80 percent of Russia's exports. The country is the world's largest oil producer and the biggest exporter of natural gas, nickel and palladium. Russia imports mostly vehicles, machinery and equipment, plastics, medicines, iron and steel, consumer goods, meat, fruits and semi-finished metal products. Its main trading partners are: European Union (Germany, Italy, France), China and Ukraine.
- Industrial production in Russia expanded 2 percent in March 2012. Industrial production measures the changes in output for the industrial sector of the economy which includes manufacturing, mining, and utilities. Industrial Production is an important indicator for economic forecasting and is often used to measure inflation pressures as high levels of industrial production can lead to sudden changes in prices.
- Russia's latest economic performance has been robust, in spite of the fact that output growth is slowing this year in line with weaker growth in Europe and in a number of emerging economies.
- The fiscal budgets are expected to turn to a deficit in 2012. Even though the output gap is closing and economic growth is broadly in line with its potential, the consolidated budget could deteriorate 2.7 percent of GDP from 2011 to 2012. However, higher than-anticipated oil prices could once again result in better-than-planned outcomes. Nevertheless, during the first two months of 2012, the federal government deficit was around 3 percent of GDP in part due to large expenditure disbursements for the first quarter of the fiscal year. In particular, allocations of inter-governmental transfers to the regions, advance payments for military modernization, and quarterly subsidies to organizations in health and education contributed to a budget deficit.
- Russia's fixed capital investment grew by 11.2 percent in the first quarter of 2012. In March 2012, fixed capital investment rose 4.9 percent to 601.4 billion rubles (\$20.4 billion) year-on-year and grew 7.4 percent compared to February 2012. Russia's retail sales increased 7.5 percent in January-March 2012 to 4.666 trillion rubles (\$158.2 billion) as compared to the same period in 2011. In March 2012, retail sales went up 7.3 percent year-on-year to 1.631 trillion rubles.

## **Russia and WTO**

The Eighth Ministerial Conference of WTO formally approved the Accession Package of the Russian Federation on 16 December 2011. Following Duma's ratification of Russia's Protocol of Accession, the Federation Council, the Russian Parliament's upper house, must approve the Protocol before it receives the assent of the President. Both are expected before the July 23 deadline for Russia to notify the WTO of ratification. Russia will then become a Member of the WTO, 30 days after notifying the Secretariat of the domestic ratification of its Accession Protocol.

On an average, the final legally binding tariff ceiling for the Russian Federation will be 7.8%.

- The average tariff ceiling for agriculture products will be 10.8%,
- The ceiling average for manufactured goods will be 7.3%
- Export duties would be fixed for over 700 tariff lines, including certain products in the sectors of fish and crustaceans, mineral fuels and oils, raw hides and skins, wood, pulp and paper, and base metals.
- The final bound rate will be implemented on the date of accession for more than one third of national tariff lines with another quarter of the tariff cuts to be put in place three years later.

The Russian Federation has made specific commitments on 11 service sectors and on 116 sub-sectors.

- On telecommunications, the foreign equity limitation (49%) would be eliminated four years after the accession. Russia has also agreed to apply the terms of the WTO's Basic Telecommunications Agreement.
- Foreign insurance companies would be allowed to establish branches, nine years after Russia accedes.
- Foreign banks would be allowed to establish subsidiaries. There would be no cap on foreign equity in individual banking institutions, but the overall foreign capital participation in the banking system of the Russian Federation would be limited to 50%
- On transport services, the Russian Federation made commitments in maritime and road transport services, including the actual transportation of freight and passengers.
- On distribution services, Russia would allow 100% foreign-owned companies to engage in wholesale, retail and franchise sectors upon accession to the WTO.
- Russia also has committed to join the Information Technology Agreement, which aims to eliminate tariffs on critical IT products.
- Upon accession, the Russian Federation would apply the Custom Union Generalised System of Preferences scheme (CU GSP) for the developing and least-developed countries.
- Producers and distributors of natural gas in the Russian Federation would operate on the basis of normal commercial considerations, based on recovery of costs and profit.

### **Agenda for the next report**

- The key agenda for the next report will follow up the developments covered in the current report and track the progress.
- A comparative analysis of the performance of Russia's pre-accession to the WTO and post-accession to the WTO will be covered.
- A detailed study of Russia's compliance of WTO norms and regulations including the setting up agencies and infrastructure to administer and implement the WTO obligations will be undertaken.
- The U.S Congress is considering a repeal of their domestic law (Title IV of the Trade Act of 1974) to establish permanent normal trade relations (PNTR) with Russia and to graduate Russia from the requirements of the 1974 Jackson-Vanik Amendment. The developments in the United States on the proposed legislation to grant PNTR status to Russia will be examined.
- The next report will include future developments with respect to Free Trade Agreements and further negotiations.

## RUSSIA

### TRADE POLICY MONITORING REPORT

#### FOR THE QUARTERLY PERIOD

JANUARY 2012- MARCH 2012

#### INTRODUCTION

This is the first Quarterly Trade Policy Monitoring Report prepared by the Centre for International Trade and Economic Laws (CITEL), Jindal Global Law School. This report will monitor and discuss the trade and macroeconomic policy developments that took place in Russia during the period: January- March, 2012.

#### PART I: ECONOMIC ENVIRONMENT

It has been seen that the economic news for the first few months of 2012 have been positive, however the global recovery still remains fragile. The economy has returned back to its pre-crisis peak, towards the end of last year, maintained by growth of robust consumption. If calculated in dollar terms, Russia's economy was the 9<sup>th</sup> biggest in the world compared to it being 7<sup>th</sup> biggest in 2007. If one takes into account the purchasing power parity, then Russia's economy is the 6<sup>th</sup> biggest in the world. The employment figures have returned to their pre-crisis level, and wages have grown at a solid pace. Inflation has reached its lowest figures in the two decades. The fiscal balance has returned to a surplus. It is also important to note that Russia's public debt was no more than 10 percent of the GDP.<sup>1</sup>

Nonetheless, many of these achievements are tied to the high price of oil. The price of oil crossed US\$125/barrel in early March 2012, the first time since July 2008. High oil prices led to strong export receipts, resilient fiscal revenues, and a bullish stock market. On the other hand, in spite of high oil prices, Russia's economic expansion remains passive. Indeed, Russia's recovery from the 2008 disaster was slow compared to its recovery from the 1998 crisis, both in a historical and an international perspective. Kaspar Richter, the World Bank's Chief Economist for Russia commented on the 2008 Russian crisis in the following words: "The recovery from the crisis has been somewhat sluggish so far". Russia has been slower than other economies, in terms of pre-crisis growth and post-crisis performance. It took a period of thirteen quarters to recover from the crisis, twice the time taken to recover from the 1998 crisis. Russia attained the stage of pre-crisis level only at the end of 2011. The reason for the slow recovery was found to be weak investments.<sup>2</sup>

Fixed capital investment is still recovering from the crisis. Compared to the pre-crisis peak of the second quarter of 2008, private consumption recovered the best, followed by public consumption and exports. Whereas imports tapered the sharpest during the crisis, they improved strongly and in the third quarter of 2011 were close to the pre-crisis level. Fixed capital investment rebounded slowly, and remained 3 percentage

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<sup>1</sup> Sergei Ulatov et al., *Russian Economic Report*, <http://www.worldbank.org/content/dam/Worldbank/document/ret-27-march2012-eng.pdf> (last visited: May 10, 2012).

<sup>2</sup> Jason Bush, *Russia Must Reform to Boost Weak Recovery - World Bank*, <http://uk.reuters.com/article/2012/03/27/uk-russia-economy-idUKBRE82Q0OK20120327> (last visited: Jul.14, 2012).

points below the pre-crisis level in the third quarter of 2011. Investment reached 22 percent of GDP in the third quarter of 2011, about 4.4 percent of GDP below the level in the second quarter of 2008.

Growth in the tradable sector was lifted by a solid recovery in agriculture. A sectorial analysis shows that, in contrast to previous years, the tradable sector grew faster than the non-tradable sector. Prior to the crisis, growth relied heavily on construction, real estate, wholesale and retail trade and financial services. On the other hand, non-tradable sectors underwent sizable modifications during the crisis, and, with the exclusion of financial services, recovered in 2010. In 2011, all non-tradable sectors posted positive growth, although growth moderated in some subsectors compared to 2010, including wholesale and retail trade and transport and communication. In the tradable sector, mineral extraction and manufacturing also took a hit during the 2008/09 crisis as global demand for energy and industrial production plummeted. While these two sectors rebounded in 2010, agriculture contracted sharply due to a drought, moderating growth in the tradable sector to below 5 percent. In 2011, growth in manufacturing and especially mineral extraction weakened, but growth in agriculture bounced back strongly due to a bumper crop. Consequently, growth in tradable sectors increased to 5.9 percent, compared to only 3.6 percent in the non-tradable sectors. The growth contribution of mineral extraction and manufacturing declined from 1.8 percent of GDP in 2010 to 1.1 percent of GDP in 2011, while agriculture improved from -0.4 percent of GDP in 2010 to 0.6 percent of GDP in 2011.<sup>3</sup>

Russia's agricultural sector totally revived from the 2010 drought which insisted the government to impose an embargo on exports of grains.<sup>4</sup> Since 1 July 2011, the new agricultural year, Russia exported 18.5 million tons of wheat. The Vice-President of Russia's Agrarian Union, Mr. Alexander Korbut remarked: "The positive results of the past months were linked to the fact that we could assure record grain deliveries in July, August, September and October. This was significantly guaranteed by the presence of a large last year's harvest. Moreover, the market was favourable because the demand-supply situation was good. We offered low prices compared to others when we returned to the market. In fact, the market is traditionally ours in the first half of the season. In short, basically, the wheat deliveries came from Russia while Ukraine concentrated on maize and barley."<sup>5</sup>

With the rise in agricultural production, Russian producers are aimed of exporting their products to the Western world at an increased rate.<sup>5</sup>

## **BALANCE OF PAYMENTS**

The current account performed well in 2011, supported by high oil prices. This allowed the Central Bank of Russia to add to its foreign reserves, even though net capital outflows increased towards the end of the year. The real depreciation of the exchange rate in the second half of 2011 reversed in early 2012 with the improvement in global market sentiment.<sup>6</sup>

The external current account benefited from high oil prices in 2011, but remains vulnerable to oil price shocks. Russia's trade balance remains largely a function of oil prices. The strong rise in oil prices in 2011

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> *Russian Wheat Exports Set New Record*, [http://english.ruvr.ru/2012\\_04\\_17/72031316/](http://english.ruvr.ru/2012_04_17/72031316/) (last visited: Jun. 12, 2012).

<sup>5</sup> *Russian Food Exports on the Increase*, <http://www.telegraph.co.uk/sponsored/russianow/business/9199765/Russia-food-export-increase.html> (last visited: Jun. 12, 2012).

<sup>6</sup> *Supra* note 1.

more than offset the modest decrease in oil export volumes and helped to improve the trade balance, which in turn strengthened Russia's current account.

Monthly year-on-year import growth slowed from over 40 percent in nominal dollar value in mid-2011 to around 20 percent by end-2011, contributing to the strength of the current account. The current account surplus rose to US\$101 billion in 2011 from US\$70 billion in 2010. The current account surplus is just over half the size of the trade surplus, as Russia ran large deficits in services and investment income, where payments abroad are about twice the amount of payments received. At the same time, the non-oil current account deficit further increased to US\$240 billion in 2011 (13 percent of GDP) from US\$184 billion in 2010 (12.4 percent of GDP), underlying the vulnerability of the current account to oil price shocks. In 2011, non-energy exports declined to less than 35 percent of total goods exports, down from over 37 percent in 2009.

## **MONETARY AND EXCHANGE RATE POLICY AND CREDIT**

CPI inflation fell almost 520 basis points from June 2011 to February 2012, the CBR lowered its refinancing rate only once during this time, lowering it by only 25 basis points to 8 percent in January 2012. As a result, real interest rates turned positive in September 2011. This curtailed domestic demand, although inflation is expected to pick up later in the year, the economically relevant real interest rate (nominal interest rate minus expected inflation) is not as high as the current inflation rate indicates. At the same time, the CBR increased its overnight deposit rate in September 2011 and January 2012 by 25 basis points each to a level of 4 percent. Hence, the policy interest rate corridor narrowed 75 basis points over this period, although it remains relatively wide by international standards. Minimum capital requirements for banks doubled to 180 million rubles in January 2012, and are set to increase to 300 million rubles in 2015. During this time, the CBR also reduced the stock of bank liquidity. For example, the percentage of liquid assets held by banks declined to 24 percent in early 2012, down from over 29 percent in the second quarter of 2009. Liquidity fell as the CBR switched from net purchases of foreign exchange in the first half to net sales of foreign exchange in the second half of 2011, while demand for cash rubles continued to grow with nominal wage growth of 12 percent. As a result, banks had to rely more on the CBR's refinancing operations as a source for liquidity, along with short-term Ministry of Finance deposits. For example, banks borrowed over 0.8 trillion rubles from the CBR in November and December 2011, the highest volume borrowed since 2002. Hence, the interbank interest rate moved away from the deposit rate towards the centre of the interest corridor. The absorption of bank liquidity, along with large capital outflows, translated into a slower expansion of money supply. Growth of M2 money supply declined to 21.4 percent in 2011 from 30.7 percent in 2010.<sup>7</sup>

Monetary policy tightening translated into higher lending rates to households. After declining from 34 percent in January 2010 to 22 percent in June 2011, lending rates to households increased in the second half of 2011, reaching 25.2 percent in November 2011, even though inflation fell. Whereas with regard to the spread between lending rates to households and the CBR refinancing rate remained high at 1695 basis points in November 2011, lending rates to enterprises converged almost to the level of the refinancing rate. Lending rates for corporations are much lower than for households. This is in part due to large intra-group lending and a high concentration of loans to single corporate borrowers, as well as the higher risk perception of household lending, especially in the absence of collateral.

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<sup>7</sup> *Id.*

However it has been seen that, in spite of higher interest rates, credit to the private sector continued to recover. The total stock of credit to the private sector increased 26 percent in nominal terms in 2011. This lifted private credit to 46.1 percent of GDP in the fourth quarter of 2011 from 43.9 percent of GDP a year ago. Credit to households, for example, mortgages, consumer lines of credit and car loans, rose 34 percent, and credit to non-financial corporations increased 24 percent. Mortgage lending, which was supported by a government refinancing program, decreased down-payment requirements, and an average lending rate of just 11.9 percent (the lowest rate in the history of mortgage lending in Russia), saw particularly strong growth, reaching 713 billion rubles last year, up from 380 billion rubles in 2010. Furthermore, the share of non-performing loans decreased to 6.6 percent of all loans in January 2012, down from 8.2 percent in January 2011 and 9.5 percent in January 2010. However, the share of loans that are non-performing as well as the share of loans with loan loss provision placements remain above pre-crisis levels.

The GDP growth rate remained constant throughout the quarter at 4.8 percent.<sup>8</sup>

## FISCAL POSITION

The fiscal budgets are expected to turn to a deficit in 2012. Even though the output gap is closing and the economic growth is broadly in line with its potential, the consolidated budget could deteriorate 2.7 percent of GDP from 2011 to 2012. However, higher oil prices than-anticipated could result in better-than-planned outcomes. However, during the first two months of 2012, the federal government deficit was around 3 percent of GDP in part due to large expenditure disbursements for the first quarter of the fiscal year. In particular, allocations of inter-governmental transfers to the regions, advance payments for military modernization, and quarterly subsidies to organizations in health and education, contributed to a budget deficit.<sup>9</sup>

It is important to note that the federal budget relies on high oil prices. This is borne out by three indicators. First, in 2011, oil and gas revenues were 10.4 percent of GDP, equal to half of federal revenues. In 2009, they were only 7.6 percent of GDP, equal to two-fifths of federal revenues. Second, the federal budget is based on a higher oil price assumption than in the past. The Urals oil price assumption of the federal budget increased from US\$75/barrel in US\$2011 to 100 in 2012. Third, the oil price needed for the federal budget to break even increased from less than US\$30 (in 2007) to US\$100 or more (in 2009). For 2012, the break even oil price is estimated to be over US\$110. Hence, even a moderate correction in the oil prices could reverse improvements on the revenue side achieved in 2011.

The national reserve and national prosperity funds still need to be replenished. They declined from 16.0 percent of GDP in 2008 to 6.6 percent of GDP in 2011 as the government used the resources to stabilize the economy during the crisis. While the reserve fund increased again in the first two months of 2012, mainly thanks to the transfer of the 2011 fiscal surplus, it is projected to stay below 10 percent of GDP by 2014. In addition, in the absence of a fiscal rule, such as a limit on the non-oil fiscal deficit, the effectiveness of these funds to shelter the economy from oil price volatility and ensure intergenerational equity, is diminished.

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<sup>8</sup> See generally *Economic and Financial Indicators*, THE ECONOMIST, Jan. 28, 2012 at 80; Feb. 25, 2012 at 92; Mar. 31, 2012 at 104.

<sup>9</sup> *Supra* note 1.

The International Monetary Fund (IMF) has forecasted Russia's gross domestic product growth to slow down to 3.3 percent in 2012 from a GDP of 4.1 percent in 2011, the IMF reported in the World Economic Outlook Report, 2012. The IMF also pulled down the country's GDP growth forecast from 4 percent to 3.9 percent for 2013.<sup>10</sup> The official forecast of Russia's Economic Development Ministry cut its forecast for this year to 3.4 percent from 3.7 percent. In 2011 Russia's gross domestic product grew by 4.2 percent, the world's third highest growth rate among leading economies. The IMF also improved its 2012 forecast for economic growth in the CIS states by 0.5 percentage points to 4.2 percent and 2013 forecast by 0.3 percentage points to 4.1 percent. As for the Central and Eastern Europe countries, their GDP will grow 0.8 percentage points to 1.9 percent this year and by 0.5 percentage points to 2.9 percent next year.<sup>11</sup>

A marked deceleration in economic growth in March provided further evidence that after a strong start to the year, Russia is feeling the chill from a cooling global economy. Russia's gross domestic product (GDP) grew 3.2 percent in March, year-on-year, down from a 4.8 per cent annual growth recorded in February, remarked Elvira Nabiullina, the Economy Minister.. March's growth rate was also below the 3.9 percent annual rate recorded in January, and the 4.3 percent seen in 2011.<sup>12</sup>

The phase of post-crisis recovery growth is over, accumulation of inventories has stopped and further economic growth is driven by an increase in internal consumer investment demand with a stronger tendency towards import substitution. Russia's economy, which slumped by 8 percent in 2009, recovered from its pre-crisis level, at the end of 2011.

## **FREE TRADE AGREEMENTS**

### **Russia and EU**

EU is one of the main trading partners of Russia. In 2010, EU's trade turn over with Russia amounted 47.1%. EU is also having good investments in Russia. Russia is expecting 75% of FDI stocks from the EU in the near future. Russia-EU trade relationship is based on the Partnership and Cooperation Agreement signed in 1994. This Agreement came into effect on 1 December 1997 and acts as a basis for bilateral trade relations and investments. Political and economic relations between the two countries are regulated by the agreement. Under the existing rules regulating Russia- EU trade relations, Russia has the flexibility to adopt unilateral tariff measures. Now Russian Federation and EU are negotiating for replacing the Partnership and Cooperation Agreement with a new framework for a stable and predictable bilateral trade and investment relations.<sup>13</sup>

### **Russia- New Zealand**

Russia and its customs union partners Belarus and Kazakhstan started negotiations with New Zealand on 9 November 2010 on a comprehensive and modern Free Trade Agreement. Six rounds of negotiations were over. The final round was held at Moscow on 23 April 2012. The seventh round of negotiation is expected to

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<sup>10</sup> Odd Per Brekk, *Economic Outlook and Policy Changes for Russia in 2012*, <http://www.imf.org/external/country/RUS/rr/2012/012612.pdf> (last visited: Jul. 15, 2012).

<sup>11</sup> *Supra* note 1.

<sup>12</sup> *Id.*

<sup>13</sup> Trade: Russia, EUROPEAN COMMISSION, <http://ec.europa.eu/trade/creating-opportunities/bilateral-relations/countries/russia/> (last visited: Jun. 12, 2012).

be on 21 May 2012 in Paris. The negotiations discussed trade related issues such as Market Access, Rules of Origin, Customs Procedures, Sanitary and Phyto-sanitary Measures, Technical Barriers to Trade, Intellectual Property, Government Procurement, Electronic Commerce, Competition Policy, Trade and Labour, Trade and Environment, Dispute Settlement and so on.<sup>14</sup>

### **Russia- Peru**

Peru is seeking for a Free Trade Agreement with Russia. The Peruvian products namely garlic, olives, onions, oregano, mandarine, mango, avocado, asparagus, sesame, grape, cocoa, tomato, artichoke, paprika, strawberry, blueberry, cherry, pineapple, papaya and citrus are expected to have a good market in Russia.<sup>15</sup>

### **Russia- Vietnam**

The discussion regarding a Free Trade Agreement with Vietnam is at an exploratory phase.<sup>16</sup>

### **Russia- India**

Russia's accession to the WTO is expected to initiate discussion for significant bilateral economic cooperation agreement between India and Russia. India has expressed its readiness to enter into a Comprehensive Economic Partnership Agreement with the Customs Union comprising Russia, Belarus and Kazakhstan and has already decided to set up a Joint Study Group in this regard.

## **RUSSIA AND FOREIGN DIRECT INVESTMENT**

Foreign Direct Investment in the Russian economy increased by 39 percent to over \$27 billion, year on year in January-March 2012. Foreign direct investment in Russia in the first half of 2012 came close to the level of the pre-crisis year 2007 when it stood at \$29.6 billion. The recovery of the Russian economy and the government's measures to improve the business climate in the country gives hope that FDI could hit \$60-70 billion.

According to the Russian Central Bank's estimates, foreign direct investment in Russia grew to \$41.2 billion in 2010 from \$36.5 billion in 2009. FDI stood at \$55.1 billion in 2007 and hit a record of \$75.5 billion in 2008. Russia's net private capital outflow shrank to \$9.9 billion in the second quarter of 2011 from \$21.3 billion in the first quarter, while June registered a net capital inflow of \$3 billion.<sup>17</sup>

## **RUSSIA AND INVESTMENT**

Russia's fixed capital investment grew by 11.2 percent in the first quarter of 2012, according to the Federal State Statistics Service. In March, fixed capital investment rose 4.9 percent to 601.4 billion rubles (\$20.4

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<sup>14</sup> *New Zealand - Russia-Belarus-Kazakhstan Free Trade Agreement (FTA)*, <http://www.mfat.govt.nz/Trade-and-Economic-Relations/2-Trade-Relationships-and-Agreements/Russia-Belarus-Kazakhstan/index.php> (last visited: Jun. 13, 2012).

<sup>15</sup> *Peru: Free Trade Agreement with Russia, India and Vietnam to Bring Benefits*, [http://www.freshplaza.com/news\\_detail.asp?id=97015](http://www.freshplaza.com/news_detail.asp?id=97015) (last visited: Jun. 12, 2012).

<sup>16</sup> Kirill Muradov, *Russia in the Asia Pacific: A Bleak Outlook*, <http://www.eastasiaforum.org/2011/10/21/russia-in-the-asia-pacific-a-bleak-outlook/> (last visited: Jun. 12, 2012).

<sup>17</sup> *Foreign Direct Investment in Russia up 39 pct in H1 says Putin*, <http://en.rian.ru/business/20110720/165298144.html> (last visited: May 8, 2012).

billion) year-on-year and grew 7.4 percent compared to February 2012. Russia's retail sales increased 7.5 percent in January-March 2012 to 4.666 trillion rubles (\$158.2 billion) compared to the same period in 2011. In March retail sales went up 7.3 percent year-on-year to 1.631 trillion rubles.<sup>18</sup>

The International Monetary Fund (IMF) increased its forecast for Russia's gross domestic product growth to four percent in 2012 from the previous 3.3 percent. The IMF's forecast for 2012 is higher than the official forecast of Russia's Economic Development Ministry which cut its forecast to 3.4 percent from 3.7 percent for the year 2012.<sup>19</sup>

## **RUSSIA BALANCE OF TRADE**

In February 2012, Russia reported a trade surplus equivalent to 19.8 Billion USD. Russia is the world's largest oil producer. Russia exports natural gas, nickel and palladium in large quantities. More than 80% of the Russian exports are from the sectors of Metals and energy. The main Russian imports are vehicles, machinery and equipment, plastics, medicines, iron and steel, consumer goods, meat, fruits and semi-finished metal products. European Union, China and Ukraine are the main trading partners of Russia.<sup>20</sup>

## **RUSSIA EXPORTS**

Russian exports were worth 45 Billion USD in February 2012. Metals and energy make up more than 80 percent of Russia's exports. Russia is the world's largest oil producer and the biggest exporter of natural gas, nickel and palladium. Energy sales contribute to almost half of Russia's budget revenue. The Russian fishing industry is the world's fourth-largest. Main export partners are Netherlands, Germany and Italy.<sup>21</sup>

Only goods for personal use are allowed to be exported out of Russia without any duty.

### **Export Restrictions**

- Export of Sturgeons fish belonging to the category of Acipenseridae family and related products containing sturgeon fish thereof are banned;
- Arms and ammunitions of any kind are banned;
- Precious metals and articles made of precious metals including gold, silver, platinum, etc. containing precious stones are banned;
- Duties are levied on the export of furs, antiques which are old than 50 years and art objects from Russia. In addition, a special permit from the Ministry of Culture should be obtained for the export;
- For exporting weapons of all kinds, a special permit from Internal Affairs Ministry is needed besides a declaration;

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<sup>18</sup> *Russia's Fixed Capital Investment Rises 11% in Q1*, <http://en.ria.ru/business/20120418/172897007.html> (last visited: May 5, 2012).

<sup>19</sup> *Id.*

<sup>20</sup> *Russia Balance of Trade*, <http://www.tradingeconomics.com/russia/balance-of-trade> (last visited: May 12, 2012).

<sup>21</sup> *Id.*

- For exporting archeological, historical and artistic objects, a written permission from the Ministry of Cultural Affairs is required along with a photograph of the exported object.<sup>22</sup>

## RUSSIA IMPORTS

Russian imports were worth 25.2 Billion USD in February 2012. Its main import partners are: European Union countries (Germany, France, Italy), China, Ukraine, Japan and the United States.<sup>23</sup>

The import of the following items has been made free without any restrictions in Russia:

- Personal usage goods of the value of RUB 65000;
- Alcoholic beverages to an extent of 2 litres for persons belonging to 21 years of age and older;
- Factory packed caviar to an extent of 250 grams for one person;
- 100 cigars or 400 cigarettes or 500 grams of tobacco products or 200 cigarillos or 50 cigars+ 200 cigarettes + 250 grams of tobacco products + 100 cigarillos;
- Perfume for personal usage.<sup>24</sup>

## Import Restrictions

- Import of arms and ammunitions are banned without specificity to any country;
- Import of Sturgeons fish belonging to the category of Acipenseridae family and related products containing sturgeon fish thereof and live animals are subject to certain restrictions;
- Imports of meat and meat products and dairy and dairy products from Armenia and Georgia are banned. Importation of dairy and dairy products is permitted, provided they are packed in factories and for personal usage. In case of large quantities, appropriate documentation including veterinary health documents is necessary;
- Import of any printed material against the Russian Federation and photographs relating thereto are banned without specificity to any country;
- Imports of fruits and vegetables without specificity to any country are banned;
- Imports of military arms and ammunition without specificity to any country are banned;
- Imports of narcotics without specificity to any country are banned.

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<sup>22</sup> *Russia Customs*, <http://russia.visahq.in/customs/> (last visited: Jun. 12, 2012).

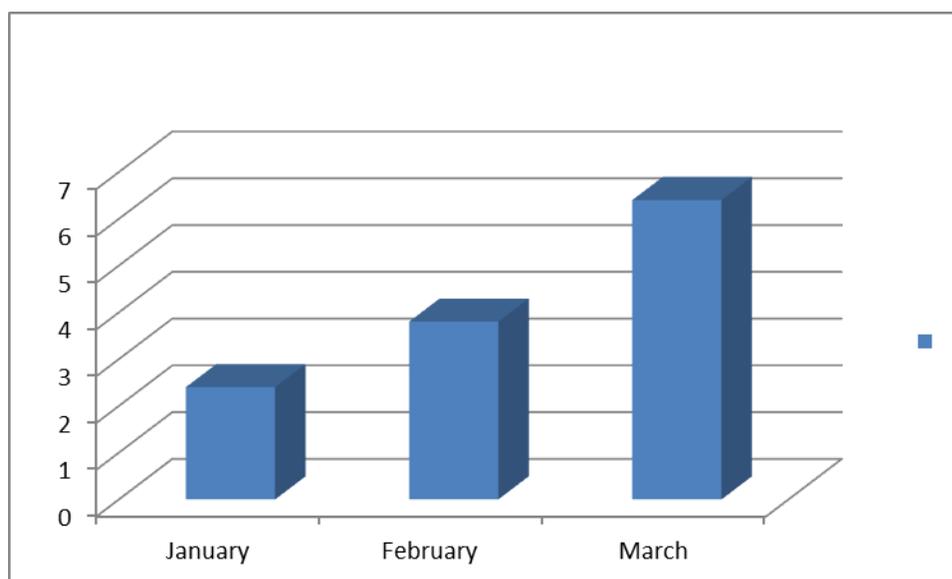
<sup>23</sup> *Supra* note 11.

<sup>24</sup> *Supra* note 22.

- Imports of cats, dogs and birds must be accompanied by a veterinarian health certificate along with the seal of the local Board of Health. It should not be issued prior to ten days of the arrival. In the case of pigeons, the imports must be accompanied by a certificate proving that the pigeons are free from bird flu. With regard to all animals other than cats and dogs, special import permission from the Veterinary Department Ministry of Agriculture is necessary.<sup>25</sup>

## RUSSIA'S INDUSTRIAL PRODUCTION

Industrial Production in Russia expanded 2 percent in March 2012. Industrial production measures changes in output for the industrial sector of the economy, and includes manufacturing, mining, and utilities. Industrial Production is an important indicator for economic forecasting and is often used to measure inflation pressures, as high levels of industrial production can lead to sudden changes in prices. From 2006 until 2010, Russia's industrial production averaged 2.25 percent reaching a historical high of 12.60 percent in May of 2010 and a record low of -16.90 percent in January 2009.<sup>26</sup>



**Source:** The Economist (January- March issues).

The industrial production in Russia had a steady growth in the year 2012. The value increased from 2.4 in January to 3.8 in February and reached 6.4 in March 2012.<sup>27</sup>

## RUSSIA INFLATION RATE

The World Bank lowered its inflationary expectations for 2012, from 6%-7% to 5%-6%. "Inflation is expected to stay low in the coming months in view of tight monetary policy and recent exchange rate appreciation. However, it is set to increase later in the year as the delayed increases in utility prices take effect

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<sup>25</sup> *Id.*

<sup>26</sup> *Supra* note 11.

<sup>27</sup> *Supra* note 22.

in July. In addition, demand pressures are likely to strengthen as the output gap closes and labor shortages emerge. By year-end, inflation could be close to the upper limit of the CBR's target band of 5.0 to 6.0 percent," the World Bank stated.<sup>28</sup>

The inflation rate in Russia was 3.7 percent in March 2012. From 1991 until 2010, the average inflation rate in Russia was 175.36 percent reaching a historical high of 2333.30 percent in December 1992 and a record low of 5.50 percent in July 2010. Inflation rate refers to a general rise in prices measured against a standard level of purchasing power. The most well known measures of Inflation are the CPI which measures consumer prices, and the GDP deflator which measures inflation in the whole of the domestic economy.

### **RUSSIA INTEREST RATE**

The benchmark interest rate in Russia was 8 percent. In Russia, interest rate decisions are taken by the Central Bank of the Russian Federation. The official interest rate is the refinancing rate, which is seen as a ceiling for borrowing money and a benchmark for calculating tax payments. From 1991 until 2010, Russia's average interest rate was 55.34 percent reaching a historical high of 210.00 percent in October 1993 and a record low of 7.75 percent in June 2010.<sup>29</sup>

### **RUSSIA UNEMPLOYMENT RATE**

The unemployment rate in Russia was 6.5 percent in March of 2012. From 1999 until 2010, Russia's Unemployment Rate averaged 8.37 percent reaching a historical high of 14.60 percent in February 1999 and a record low of 5.40 percent in May 2008. The labour force is defined as the number of people employed plus the number unemployed but seeking work. The non labour force includes those who are not looking for work, those who are institutionalised and those serving in the military.<sup>30</sup>

### **RUSSIA STOCK MARKET**

The INDEXCF is a major stock market index which tracks the performance of large companies based in Russia. During the last 30 days, the INDEXCF declined 117 points or 7.76 percent. In the past 12 months, the INDEXCF declined 246 points or 15.09 percent. It reached a high of 1729.00 points in July 2011 and a low of 1327.19 points in September 2011. Historically, from 1997 until 2012, the INDEXCF market value averaged 712.54 points reaching a historical high of 1969.91 points in December 2007 and a record low of 18.53 points in October 1998.<sup>31</sup>

## **PART II: RUSSIA'S ACCESSION TO THE WTO**

The Eighth Ministerial Conference of WTO formally approved the Accession Package of the Russian Federation on 16 December 2011. Following Duma's ratification of Russia's Protocol of Accession, the Federation Council, the Russian Parliament's upper house, must approve the Protocol before it receives the assent of the President. Both are expected before the July 23 deadline for Russia to notify the WTO of

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<sup>29</sup> *Supra* note 11.

<sup>30</sup> *Supra* note 22.

<sup>31</sup> *Supra* note 11.

ratification. Russia will then become a Member of the WTO, 30 days after notifying the Secretariat of the domestic ratification of its Accession Package.<sup>32</sup>

The Director General Pascal Lamy observed the occasion in the following words: “It has been a long journey, but today Russia has taken a big step towards its destination of membership in the WTO. In acceding to the WTO, Russia embraces a series of rules and commitments that are the foundation of an open, transparent and non-discriminatory global trading system. This system provides important guarantees for Russia and for the 153 other Members of our organization. This win-win result will bring Russia more firmly into the global economy and make it a more attractive place to do business. For the WTO, it comes as a most welcome deliverable for the upcoming WTO Ministerial Conference and signals anew the relevance and vibrancy of the WTO as an instrument for international co-operation”.<sup>33</sup>

The Jackson –Vanik Amendment (Title IV of the Trade Act of 1974) denies most favored nation status (MFN) to certain countries with non-market economies that restrict emigration, which is considered a human right. Permanent Normal Trade Relations (PNTR) can be extended to a country subject to the law only if the President determines that it complies with the freedom of emigration requirements of the amendment. However, the President has the authority to grant a yearly waiver to the provisions of Jackson-Vanik, and these waivers were granted to the People's Republic of China starting in the late 1970s and later to Vietnam.<sup>34</sup>

If the US is not repealing the Jackson-Vanik amendment, the US government will not be entitled to seek dispute settlement remedies against Russia under the WTO dispute settlement provisions. To explain, when a WTO member determines that it cannot, for political or other reasons, accede to the MFN or for that matter any other GATT/ WTO principle, it can opt out of the obligations by invoking the non-application provision under Article XIII of WTO Agreement and Article XXXV of GATT, 1994. While doing so, the Member invoking the non-application is declaring that the WTO obligations and other mechanisms would not be applicable by the Member in its trade with the newly acceding member. Therefore, approval of the PNTR is an immediate priority for the US Congress.

## **PRE – ACCESSION SITUATION IN RUSSIA**

- Russia had no tariff bindings and was thus able to increase tariffs without any limit.
- In response to the 2008 global economic crisis, Russia raised tariffs on a number of goods, including combine harvesters, certain types of cold-rolled steel, steel pipes and rolled products, rice, and processed cheese.
- Russia has also used unjustified SPS measures and other measures, to disrupt trade in poultry, pork, spirits, and dairy.

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<sup>32</sup> Anna Heatherington, *Historical and Current Barriers to Russia's WTO Membership*, JURIST, at <http://jurist.org/dataline/2012/04/anna-heatherington-russia-wto.php> (last visited: Jul. 14, 2012).

<sup>33</sup> Working Party Seals The Deal On Russia's Membership Negotiations, [http://www.wto.org/english/news\\_e/news11\\_e/acc\\_rus\\_10nov11\\_e.htm](http://www.wto.org/english/news_e/news11_e/acc_rus_10nov11_e.htm) (May 5, 2012).

<sup>34</sup> *Supra* note 32.

- Russia adopted industrial policies favoring local production and local products.<sup>35</sup>

## MARKET ACCESS FOLLOWING RUSSIA'S ACCESSION

The following are the key market access commitments offered by Russia as part of the WTO accession:

### Tariffs

- Russia's average final bound rate for industrial goods will be approximately 7 percent, a decrease from the current applied average tariff rate of 10 percent.
- Approximately 38 percent of Russia's tariff lines will have their final bound rates implemented upon accession and over 80 percent will have their final bound rates implemented within 3 years.
- For agriculture, most tariff reductions will be implemented as of Russia's accession to the WTO; and other agricultural products are subject to short transitions.
  - Wine: Russia has committed to a final bound tariff of 12.5 percent within 4 years; currently Russia applies a tariff of 20 percent.
  - Select Fruit Juices: Russia will apply a final bound tariff rate of 5 percent on key orange juice lines; currently Russia applies a tariff of 15 percent.
  - Pears and other Fresh Fruits: Russia has committed to a final bound tariff of 5 percent; Russia currently applies a tariff of 10 percent.
  - Breakfast cereals: Russia has committed to a maximum final bound tariff of 10 percent for these products; Russia currently applies a 15 percent tariff.
  - Pork: Russia will apply zero tariffs on pork products within the tariff rate quota. Russia's current applied tariff on these products is 15 percent.
  - Beef: Russia expanded beef access from 41,700 tons to 60,000 tons through a U.S. country-specific TRQ, with a 15 percent in-quota tariff. In addition, Russia has established access for High Quality Beef with a 15 percent tariff outside of the tariff rate quota for beef.
  - Live Animals: Russia has committed to a final bound tariff of 5 percent for live animals, with some tariff lines at zero. Russia currently applies up to a 40 percent tariff on live animals.<sup>36</sup>
- Important industrial products that will benefit from tariff reductions include:
  - Information Technology: Russia has committed to join the ITA upon accession, providing duty free treatment on all ITA products within three years; current average applied tariff on ITA products is 5.2 percent.

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<sup>35</sup> *Id.*

<sup>36</sup> *Supra* note 20.

- Wide Body Aircraft: Russia committed to bind its wide body aircraft at 7.5 percent; Russia's current applied tariffs on these products range as high as 20 percent.
- Chemical Products: Russia has agreed to final bound rates on chemical products that are generally consistent with the rates specified under the Chemical Tariff Harmonization Agreement, resulting in an average final bound rate of 5.3 percent. Currently, Russian tariffs on chemicals average 6.7 percent and go as high as 20 percent.
- Plastics: Russia has committed to an average final bound tariff for plastics of 6.2 percent; Russia currently applies an average tariff of 10 percent.
- Steel: Russia has committed to an average final bound tariff of 6 percent on steel products; currently Russia applies an average tariff rate of 8.9 percent.
- Combine harvesters and threshers: Russia has committed to a final bound tariff rate of 5 percent for combine harvesters and threshers. Currently Russia applies a tariff of 15 percent.<sup>37</sup>

### **Non-Tariff Measures**

- Russia will be required to apply its trade regime consistent with WTO rules, including those on technical barriers to trade, subsidies, and sanitary and phytosanitary measures, limiting Russia's ability to engage in arbitrary actions.
- Upon accession, Russia will be required to comply with WTO rules on the protection and enforcement of intellectual property rights, significantly improving the current regime.
- At the insistence of the United States, Russia has liberalized its import licensing regime for products with encryption, significantly reducing the barriers for U.S. exporters of consumer electronic products.
- Russia has committed to adopt specific transparency measures, such as publication of draft rules and providing opportunity for public comment prior to their adoption, that will increase significantly the predictability of Russia's trading system.
- The WTO members will have access to WTO mechanisms, including dispute resolution, to ensure Russia's compliance with the WTO trade rules.<sup>38</sup>

### **Services**

- Financial Services: Russia will allow 100 percent foreign ownership of banks, securities firms, and nonlife insurance firms.
- Telecommunications: Russia will open its telecommunication services market to all foreign suppliers and allow companies to operate as 100 percent foreign-owned enterprises.

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<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

- Computer Services: Russia will allow full access to service providers from WTO members involved in hardware and software installation, data processing and database services.
- Audio-visual Services: Russia will open its market to U.S. motion picture distribution and projection services, and sales of television and radio programs to television and radio stations. In addition, Russia will allow wholly U.S.-owned subsidiaries of audio-visual companies.
- E-Commerce: Russia will allow unrestricted access for cross-border wholesale and retail distribution.<sup>39</sup>

## **POLICIES AFFECTING TRADE IN GOODS**

The Customs Union between Belarus, Kazakhstan, and Russia came into existence on 1 January 2010. Belarus, Kazakhstan, and Russia removed all customs borders between each other after July 2011. From 1 January 2012, the three states introduced the single economic space. Russia, Kazakhstan and Belarus have launched a customs union as a first step towards forming a broader EU-type economic alliance of former Soviet states.

The Working Party report states that from 1 January 2010, the principal requirements for importing goods into and exporting goods from the Russian Federation were found in the Customs Code of the Customs Union of Russia, Belarus and Kazakhstan (hereafter: "CU Customs Code"), the Agreement on Common Measures of Non-tariff Regulation in Respect of Third Countries, signed on 25 January 2008 (hereafter: "CU Agreement on Non-Tariff Regulation"), the Agreement on the Introduction and Application of Measures Concerning Foreign Trade in Goods on the Common Customs Territory in Respect of Third Countries, signed on 9 June 2009 (hereafter: "CU Agreement on Measures Concerning Foreign Trade"), and the Agreement on Licensing in the Area of Foreign Merchandise Trade of 9 July 2009 (hereafter: "CU Licensing Agreement").<sup>40</sup>

Neither the CU Agreements, the CU Commission Decisions, nor the national legislation of the Russian Federation restricted the right of any Russian enterprise to import goods into or export goods from the Russian Federation, however, exceptions could be provided for in CU Agreements and Decisions and the Federal laws of the Russian Federation. It was noted that the State monopoly on foreign trade had been eliminated by Presidential Decree No. 213 dated 15 November 1991 "On Liberalization of Foreign Economic Activity on the Territory of the Russian Soviet Federal Socialist Republic" (as amended on 27 October 1992). This principle was further embodied in Article 1 of the Civil Code and Article 8 of the Constitution.<sup>41</sup>

According to Article 10 of Federal Law No. 164-FZ, any Russian or foreign person could be engaged in carrying out foreign trade activity (import and export). The right to carry out foreign trade activity could be restricted only in circumstances specified under international agreements, including CU Agreements, CU Commission Decisions, or Federal legislation. Export and import operations, as such, did not require an activity licence. On the other hand, an activity licence to engage in production or distribution of certain

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<sup>39</sup> *Supra* note 20.

<sup>40</sup> Report of the Working Party on the Accession of the Russian Federation into the World Trade Organization, [http://www.ustr.gov/webfm\\_send/3224](http://www.ustr.gov/webfm_send/3224) (last visited: May 7, 2012).

<sup>41</sup> *Id.*

products (such as alcohol, pharmaceuticals, and goods with encryption technology), it was required to obtain a licence to import these products.<sup>42</sup>

## CUSTOMS REGULATIONS AND PROCEDURES

The Working Party Report states that CU Agreements, CU Decisions and other CU legal documents, in particular the CU Customs Code, as amended by the Protocol on the Amendment, and Addition of the Treaty on the Customs Code of the Customs Union of 27 November 2009, signed on 16 April 2010, had provided the legal framework for the customs regime of the Russian Federation and other CU Parties. Pursuant to these CU legal acts, customs regulation was also provided by the domestic legislation of CU Parties. In the Russian Federation, this domestic legislation was Federal Law No. 311-FZ of 27 November 2010 entitled "On Customs Regulation". These legal acts had replaced the Law of the Russian Federation No. 5003-1 of 21 May 1993 "On Customs Tariff" (as last amended on 3 December 2007) and Federal Law No. 61-FZ of 28 May 2003 entitled "Customs Code of the Russian Federation", which had entered into force on 1 January 2004, as the legal basis for the customs regime of the Russian Federation. Article 357.10 of the Customs Code of the Russian Federation and provisions of the Law on Customs Tariff continued to be in effect to the extent that they did not conflict with the CU Customs Code or Federal Law No. 311-FZ. The CU Customs Code was based on generally accepted international rules, including the Revised Kyoto Convention. The CU Customs Code was the principal legal document that governed customs administration and customs procedures, including the rights and responsibilities of national customs authorities, importers, and exporters. It contained detailed provisions related to customs control, operations, payments, and various types of customs "procedures" (e.g., release for domestic use, export, re-importation and re-exportation, inward and outward processing, temporary importation or exportation, use of customs warehouses, duty free trade/shops, destruction of goods and rejection in favour of the State). The CU Customs Code also established the right of appeal against customs decisions and addressed WTO rules and disciplines on the protection of intellectual property rights at the border, customs valuation, customs fees, special economic zones, trade in transit, and rules of origin. Additional provisions on these issues were found in other CU Agreements and Decisions.<sup>43</sup>

Article 4 of Federal Law No. 311-FZ, the Government of the Russian Federation and its executive bodies (e.g., the FCS) could issue, within the limits of their respective competence and in cases clearly defined by the CU Customs Code and related legal acts as well as legal acts of the Russian Federation, normative legal acts pertaining to customs matters. The President could also issue a decree on these matters. FCS orders covered procedural issues concerning the activities of customs authorities and the majority of these orders were of an administrative or procedural nature. Other CU legal acts and national laws and measures that directly regulated foreign trade in goods were referred to in other relevant Sections of this Report, including "Registration Requirements for Import/Export Operations", "Other Customs Formalities", and "Customs Valuation". The main functions of the FCS were set-out in the Regulation "On the Federal Customs Service", which had been approved by Government Decision No. 459 of 26 July 2006 "On the Federal Customs Service" (as last amended on 15 June 2010).<sup>44</sup>

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<sup>42</sup> *Id.*

<sup>43</sup> *Supra* note 20.

<sup>44</sup> *Id.*

## ANTI-DUMPING, COUNTERVAILING AND SAFEGUARD MEASURES

The Working Party Report states that the following legal acts regulated anti-dumping, countervailing and safeguard measures in the Russian Federation: (i) the Protocol of 17 February 2000 on the Mechanism of Application of Safeguard, Anti-dumping and Countervailing Measures in Trade of the Member States of the Customs Union as between the Republics of Belarus, Kazakhstan, Tajikistan, the Kyrgyz Republic and the Russian Federation; (ii) Agreement of 25 January 2008 on Application of Safeguard, Anti-dumping and Countervailing Measures in Respect of Third Countries between the Republics of Belarus, Kazakhstan and the Russian Federation (hereafter: Agreement of 25 January 2008); (iii) the Decision of the Commission of the Customs Union No. 191 of 26 February 2010 "On the Application of Safeguard, Anti-dumping and Countervailing Measures in the Territory of the Customs Union of Belarus, Kazakhstan and the Russian Federation" (hereafter: Commission Decision No. 191); and, (iv) the following national legislation: Federal Law No. 165-FZ of 8 December 2003 "On Safeguards, Anti-dumping and Countervailing Measures Applied to the Imports of Goods", as amended by Federal Law No. 280-FZ of 30 December 2006 "On Amending the Federal Law On Safeguards, Anti-dumping and Countervailing Measures Applied to Imports of Goods"; Government Resolution No. 546 of 13 October 2004 "On Adopting the Rules on Calculation of the Amount of Specific Subsidy of a Foreign State (Union of Foreign States) and on the Invalidation of Certain Acts of the Government of the Russian Federation Regulating Issues of Application of Safeguards, Antidumping and Countervailing Measures".<sup>45</sup>

## EXPORT REGULATIONS

The Working Party report states that export duties were levied pursuant to Article 3 of the Law of the Russian Federation No. 5003-1 of 21 May 1993 "On Customs Tariff" (as last amended on 3 December 2008). The CU Agreement of 25 January 2008 "On Export Duties with regard to Third Countries" did not provide for unified export tariffs and export tariff regulation. Thus, after the establishment of the Customs Union, export duties remained subject to regulation at the national level.<sup>46</sup>

In accordance with the Government Resolution No. 291 of 30 April 2010, "On Rates of Export Customs Duties on Gas delivered from the Territory of the Russian Federation to the Territory of Ukraine", a special regime of export duties on natural gas had been established with respect to Ukraine. According to this Resolution, a certain volume of natural gas (up to 40 billion cubic metres per year, since 2011 until 2019, inclusive) exported from the Russian Federation to Ukraine could be exempted from export duties. The export duty on natural gas, exported from the Russian Federation to Ukraine, above this volume (that is, above 40 billion cubic metres per year, during the period from 2011 to 2019, inclusive) was determined based on Government Resolution No. 795 of 23 December 2006 entitled "On the Establishment of the Rates of the Export Customs Duties on Goods Exported from the Territory of the Russian Federation beyond the Borders of Countries that are Parties to Agreements on Customs Union".<sup>47</sup>

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<sup>45</sup> *Supra* note 20.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

## TECHNICAL BARRIERS TO TRADE

The Working Party report states that the legal framework for technical regulations, standards and conformity assessment systems was governed by international agreements of the EurAsEC<sup>48</sup> and of the CU<sup>49</sup>, by other EurAsEC and CU Acts, and the national legislation of the Parties to these agreements. It is important to note that the legal framework outlined in these Agreements and Acts required certain products circulating in the territories of the EurAsEC and CU Parties respectively to meet established mandatory technical, as well as sanitary and phytosanitary (SPS) requirements. In particular, trade (including both importation and circulation in the domestic market) in products in the territory of the Russian Federation could be restricted or banned if the products in question did not meet these requirements. The CU Parties, all of whom also were members of EurAsEC, had agreed to harmonize their policies and regulatory systems in the area of technical regulation within the established EurAsEC system and sought to confirm and to intensify their cooperation in this area within the framework of the CU. The goal of this harmonization was to ensure uniform requirements for the circulation of goods within the territories of the CU Parties in the area of technical regulation, realized through common technical regulations that had been developed using procedures established in conformity with CU or EurAsEC Acts adopted as international agreements or decisions among the participating EurAsEC and CU Parties. These technical regulations were applied directly in the territories of the CU Parties, and no separate national legislation was necessary. The provisions of the EurAsEC and CU Agreements and other EurAsEC and CU Acts were based on the WTO Agreement on Technical Barriers to Trade (TBT Agreement), and technical regulations were applied with the purpose of protecting the life and (or) health of humans, property, environment, animal and plant life and (or) health, and preventing actions that might mislead consumers, as well as for the purpose of ensuring energy efficiency and saving resources. The representative of the Russian Federation emphasized that technical regulations adopted and applied within the EurAsEC and CU were not adopted for any other purposes.<sup>50</sup>

Technical regulations will be developed using international standards. It is estimated that, by 2015, Russia's requirements for telecommunication equipment will be in accordance with the requirements of the Eurasian Economic Community and Custom Union agreements. The technical regulations and the list of products to be certified, will be reviewed regularly by Russia to ensure that they are in accordance with the WTO TBT Agreement. It is estimated that a national accreditation body will be established by Russia on 30 June 2012, and information regarding the same will be available on the websites of *Rosstandart* and the Custom Union Commission.<sup>51</sup>

## SANITARY AND PHYTOSANITARY MEASURES

### Pre-Accession Situation in Russia:

- Many of Russia's sanitary and phyto-sanitary (SPS) measures are inconsistent with the WTO Agreement on Sanitary and Phytosanitary Measures (SPS Agreement) and international standards. Russia has maintained and

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<sup>48</sup> Eurasian Economic Community.

<sup>49</sup> Customs Union.

<sup>50</sup> *Id.*

<sup>51</sup> Terence P. Stewart et. al, *Opportunities and Challenges from Russia's 2012 Challenges to the WTO*, <http://www.stewartlaw.com/stewartandstewart/LinkClick.aspx?link=Documents%2FRussian+2012+Accession+to+the+WTO.pdf&tabid=119&mid=579&language=en-US> (last visited: Jul.14, 2012).

applied measures that are more stringent than international standards, guidelines, and recommendations without scientific justification or risk assessments done in conformity with international standards.

- Russia's requirements for inspections to decide if U.S. establishments met the requirements to export to Russia were applied in an arbitrary and non-transparent manner.

On 1 January 2010, Russia established a Customs Union with Belarus and Kazakhstan; on 1 July 2010 the three governments granted the Customs Union authority to adopt SPS measures that would apply in Russia.

- Initially, many of the Customs Union measures were even more stringent than the Russian measures and lacked a scientific justification and risk assessment for departing from international standards.
- Both Russia and the Customs Union lacked the legal framework to implement key obligations of the SPS Agreement, including those on equivalence, non-discrimination, conducting risk assessments, and application of some international standards, e.g., Codex standards.
- U.S. companies were barred from exporting to Russia or had shipments stopped at the border based on these WTO-inconsistent measures, and enforcement was arbitrary and non-transparent.<sup>52</sup>

#### **Post-Accession Situation in Russia:**

SPS measures will be developed and applied in accordance with the provisions of the WTO by Russia. Legislation regarding standards, technical regulations and conformity assessment procedures will be in accordance with the WTO TBT Agreement. Through active participation and membership in the World Organization for Animal Health (OIE), Codex Alimentarius and the International Plant Protection Convention, Russia will develop and apply international standards on sanitary and phytosanitary measures. Any cancellation, suspension or refusal of import permits will be in consistency with the recommendations and guidelines, international standards and the WTO SPS Agreement. Russia will invite proposals from exporting countries regarding corrective measures, in the case of suspension of imports during on-site inspection. However, this commitment does not extend to cases involving serious risk to animal or human health.<sup>53</sup>

#### **SPS Benefits of Russia's Accession to the WTO**

- U.S. negotiators have insisted that the Customs Union and Russia adopt the legal framework necessary for Russia to comply with its WTO obligations before the Working Party on Russia's Accession to the WTO completes its task.
- In addition to having the mechanisms to implement the obligations described below, the Customs Union or Russia has adopted measures mandating use of international standards, if Russia or the Customs Union does

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<sup>52</sup> *Russia's Accession to the World Trade Organization Improves Sanitary and Phytosanitary Measures and How They are Applied in the Russian Federation*, [http://www.ustr.gov/sites/default/files/Russia%20SPS%20paper%20for%20Congress.FINAL\\_.11.2.11.pdf](http://www.ustr.gov/sites/default/files/Russia%20SPS%20paper%20for%20Congress.FINAL_.11.2.11.pdf) (last visited: May 11, 2012).

<sup>53</sup> *Supra* note 51.

not have a standard or if there is no scientific evidence and risk assessment justifying a standard that is more stringent than the international standard;

-Allowing for negotiation of export certificates with the Customs Union that have requirements that differ from the Customs Union common requirements and extending the validity of current certificates;

-Establishing requirements for risk assessments and mechanisms for recognizing the equivalence of WTO Members SPS measures;

-Implementing public notice and comment procedures that require a minimum 60-day comment period for Customs Union SPS measures;

-Establishing a systems approach to inspection of establishments exporting goods subject to veterinary control (e.g., meat and poultry) to Russia and for issuing import permits, where required, for these goods;

-Eliminating the requirement to have a veterinary certificate, import permit or be on a list of establishments approved for export for key products of interest to the United States, such as soybeans and corn, and modifying requirements for other products such as dairy products;

-Russia will establish transparent and detailed criteria and procedures for inspection of establishments exporting goods subject to veterinary control, based on international standards, recommendations, and guidelines.<sup>54</sup>

### **WTO Rules on Application of SPS Measures and Russia's Specific Commitments**

WTO Members have the right to apply SPS measures necessary for the Member to achieve its appropriate level of protection of human, animal or plant life or health and that minimize the negative effect on trade. Members are required to apply measures that are no more trade restrictive than necessary to achieve its appropriate level of protection, if these measures are technically and economically feasible.

Russia's specific obligations include-

- negotiating and signing veterinary certificates that are OIE compliant for BSE attestations;
- basing requirements for goods subject to veterinary control on international standards;
- with regard to certain antibiotic residues, that its measures will not discriminate between imports from WTO Members or between Russia's products and imports;
- any action taken in response to non-compliance with Russian or Customs Union requirements will be proportional to the extent of non-compliance.

These obligations will enter into force upon Russia's accession to the WTO.<sup>55</sup>

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<sup>54</sup> *Supra* note 52.

<sup>55</sup> *Supra* note 11.

It is important to note that, from the date of accession of the Russian Federation to the WTO, all SPS measures would be developed, whether by the Russian Federation or the competent bodies of the CU, and applied in the Russian Federation in accordance with the WTO Agreement and in particular, the WTO SPS Agreement. SPS measures would be applied only to the degree indispensable to protect human, animal, or plant life or health; would be based on scientific principles and, where they exist, on international standards, guidelines, and recommendations; and, would not be more trade restrictive than required to achieve the appropriate level of protection applied in the Russian Federation. These measures would not haphazardly or unduly differentiate between Members where equal or similar circumstances prevail, including distinction between the territory of the Russian Federation and that of other Members. These measures would not be applied in a manner which would constitute a camouflaged constraint on international trade, and would not be maintained without adequate technical evidence, except as provided for in Article 5.7 of the WTO SPS Agreement.<sup>56</sup>

### **TRADE-RELATED INVESTMENT MEASURES (TRIMS)**

Laws, regulations and measures relating to the TRIMS Agreement shall be consistent with the WTO provisions. Measures inconsistent with WTO provisions including preferential tariffs or tariff exemptions, applied in relation to investment programs and agreements concluded under them will be eliminated by 1 July 2018, by Russia.<sup>57</sup>

### **TRADE-RELATED INTELLECTUAL PROPERTY (TRIPS)**

Russia will apply the TRIPS Agreement, upon its accession to the WTO. Illegal distribution of copyrighted content will be looked into, and serious action against the websites will be taken. Companies which distribute copyrighted material on the Internet will be prosecuted. Russia will apply the Berne Convention for 'protection of literary and artistic works', on its accession to the WTO.<sup>58</sup>

### **INTELLECTUAL PROPERTY RIGHTS**

An important barrier for the accession of Russia to the WTO has been its incompetence to protect its Intellectual Property Rights. Nevertheless, Russia has synchronized the Russian Federation Civil Code to the requirements of the WTO. In view of it, Russia has created a Court for Intellectual Property Rights which will deal with Intellectual property cases and will start functioning from February 2013. Russia has also banned the illegal use of pharmaceutical data on clinical trials for commercial or state registration purposes. Also, an elevated patent fee for non-residents of Russia has been eliminated.<sup>59</sup>

### **INSTITUTIONAL FRAMEWORK AND TRADE**

For seventy-four years of its history the Soviet Union used to be the main alternative system to the Western world. It was a social experiment in many ways because a socialist system of this kind has never been created before. The established authoritarian regime collapsed in 1991 but some of the old institutions and structures

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<sup>56</sup> *Supra* note 20.

<sup>57</sup> *Supra* note 49.

<sup>58</sup> *Id.*

<sup>59</sup> *Supra* note 32.

remained unaffected. Consequently, what became known as the Russian Federation combined in itself characteristics of its predecessor, on one hand, and democratic features, on the other.<sup>60</sup>

In January 1992, Russia's first post-communist government launched a comprehensive economic program to transform the Soviet command system into a market economy. Privatization was and remained the heart of this plan. The original program had a clearly defined objective, namely, to create profit-seeking corporations, privately owned by outside shareholders and not dependent on government subsidies for their survival.<sup>61</sup>

Though Russia's privatization policies have been widely criticized, the evidence suggests that privatization has improved enterprise performance, especially in the case when a strong outside owner had emerged. On the other hand, many economic entities are still "in the hands of the state". The Soviet legacy is still perceived through the presence of thousands of more or less 'accidental' holdings on the state accounts – these are residual stakes in enterprises that have not been sold for various reasons. The privatization of this residual "legacy" is a tremendously difficult task. Further adjustments to existing privatization legislation could help accelerate the process of selling off small, illiquid blocs of shares and large numbers of small unitary enterprises.<sup>62</sup>

The scope of the problem is clearly reflected in the gas, oil and electricity sectors. Their importance should not be overestimated as the Russian energy complex is important to domestic and world energy markets because Russia has the world's largest natural gas reserves, the second largest coal reserves, and the eighth largest oil reserves. Russia is also the world's largest exporter of natural gas, the second largest oil exporter, and the third largest energy consumer. Besides, it produces and exports huge amounts of electricity. Russian strategic commodities have always been energy and metals.<sup>63</sup>

Historically, the Russian state remains an extremely important player in the economy. The "residual" bias towards State's ownership has been analyzed and described by many. Thus, the issue of State ownership and the governance of state-owned companies are of prime importance. Still, this ownership is not without problems – for example, the conflict of interest in the case where the state plays the role of regulator with its role of owner distorts the competition. Some analytics assert that state-owned companies are generally less efficient than their privately owned rivals, and that enterprise insiders in large state companies are able to extract significant rents for themselves.<sup>64</sup>

## THE CONSTITUTION AND GOVERNMENT STRUCTURE

During 1992-93 Yeltsin had argued that the existing, heavily amended 1978 Constitution of Russia was obsolete and self-contradictory and that Russia required a new Constitution granting the President greater power. This assertion led to the submission and advocacy of rival Constitutional drafts drawn up by the legislative and executive branches. The Parliament's failure to endorse a compromise was an important factor in Yeltsin's dissolution of the body in September 1993. Yeltsin then used his presidential powers to form a sympathetic Constitutional Assembly, which quickly produced a draft Constitution providing for a strong

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<sup>60</sup> Kamen Gechev, Critically Evaluate Scenarios for Russia's Future: Liberal Democracy vs. Authoritarianism, <http://www.allrussias.com/essays/2012/Gechev.pdf> (last visited: May 13, 2012).

<sup>61</sup> Michael McFaul, *State Power, Institutional Change, and the Politics of Privatization in Russia*, 47 WORLD POLITICS 2, 210-243 (1995), available at <http://www.jstor.org/stable/2950651> (last visited: Jul.14, 2012).

<sup>62</sup> *Id.*

<sup>63</sup> *The Constitution and Government Structure*, <http://countrystudies.us/russia/69.htm> (last visited: May 15, 2012).

<sup>64</sup> *Supra* note 60.

Executive, and to shape the outcome of the December 1993 referendum on Russia's new basic law. The referendum vote resulted in approval by 58.4 percent of Russia's registered voters. The announced 54.8 percent turnout met the requirement that at least 50 percent of registered voters participate in the referendum.<sup>65</sup>

The 1993 Constitution declares Russia a democratic, federative, law-based state with a Republican form of government. State power is divided among the Legislative, Executive, and Judicial branches. Diversity of ideologies and religions is sanctioned, and a state or compulsory ideology may not be adopted. The right to a multiparty political system is upheld. In view of it, the content of laws must be made public before they take effect, and they must be formulated in accordance with international law and principles.<sup>66</sup>

## **THE EXECUTIVE BRANCH**

The 1993 Constitution created a dual Executive, consisting of a President and Prime Minister, but the President is the dominant figure. Russia's strong presidency, sometimes, is compared with that of Charles de Gaulle (in office 1958-69) in the French Fifth Republic. The Constitution spells out many prerogatives specifically, but some powers enjoyed by Yeltsin were developed in an ad hoc manner.

## **PRESIDENTIAL POWERS**

Russia's President determines the basic direction of Russia's domestic and foreign policy and represents the Russian state within the country and in foreign affairs. The President appoints and recalls Russia's ambassadors upon consultation with the legislature, accepts the credentials and letters of recall of foreign representatives, conducts international talks, and signs international treaties.

Several prescribed powers put the President in a superior position vis-à-vis the legislature. The President has broad authority to issue decrees and directives that have the force of law without legislative review, although the Constitution notes that they must not contravene that document or other laws. Under certain conditions, the President may dissolve the State Duma, the lower house of Parliament (as a whole, now called the Federal Assembly). The President has the prerogatives of scheduling referendums (a power previously reserved to the Parliament), submitting draft laws to the State Duma, and promulgating federal laws.

The Executive-Legislative crisis of the fall of 1993 prompted Yeltsin to emplace constitutional obstacles to the legislative removal of the President. Under the 1993 Constitution, if the President commits "grave crimes" or treason, the State Duma may file impeachment charges with the Parliament's upper house, the Federation Council. These charges must be confirmed by a ruling of the Supreme Court that the President's actions constitute a crime and by a ruling of the Constitutional Court that proper procedures in filing charges have been followed. The charges then must be adopted by a special Commission of the State Duma and confirmed by at least two-thirds of State Duma deputies. A two-thirds vote of the Federation Council is required for removal of the President. If the Federation Council does not act within three months, the charges are dropped. If the President is removed from office or becomes unable to exercise power because of serious illness, the Prime Minister is to temporarily assume the President's duties; a presidential election then must be

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<sup>65</sup> *Id.*

<sup>66</sup> *Supra* note 63.

held within three months. The Constitution does not provide for a Vice-President, and there is no specific procedure for determining whether the President is able to carry out his duties.<sup>67</sup>

The President is empowered to appoint the Prime Minister to chair the Government (called the 'Cabinet' or the 'Council of Ministers' in other countries), with the consent of the State Duma. The President chairs meetings of the Government, which he also may dismiss in its entirety. Upon the advice of the Prime Minister, the President can appoint or remove Government members, including the Deputy Prime Minister. The President has the power to submit candidates to the State Duma for the post of Chairman of the Russian Central Bank (RCB), and also propose the State Duma for dismissing the Chairmanship. In addition, the President has the power to submit candidates to the Federation Council for appointment as Justices of the Constitutional Court, the Supreme Court, and the Superior Court of Arbitration, as well as candidates for the office of Procurator General, Russia's Chief Law Enforcement Officer. The President also appoints Justices of Federal District Courts.<sup>68</sup>

### **THE GOVERNMENT (CABINET)**

The Constitution prescribes that the Government of Russia, which corresponds to the Western Cabinet structure, consist of a Prime Minister (Chairman of the Government), Deputy Prime Ministers, and Federal Ministers and their Ministries and Departments. Within one week of appointment by the President and approval by the State Duma, the Prime Minister must submit to the President, nominations for all subordinate Government positions, including Deputy prime Ministers and Federal Ministers. The Prime Minister carries out administration in line with the Constitution and laws and presidential decrees. The Ministries of the Government, which numbered twenty-four in mid-1996, execute credit and monetary policies and defence, foreign policy, and state security functions; ensure the rule of law and respect for human and civil rights; protect property; and take measures against crime. If the Government issues implementing decrees and directives that are at odds with legislation or presidential decrees, the President has the power to rescind them.<sup>69</sup>

The Government formulates the State Budget, submits it to the State Duma, and issues a report on its implementation. In late 1994, the Parliament successfully demanded that the Government begin submitting quarterly reports on budget expenditures and adhere to other guidelines on budgetary matters, although the Parliament's budgetary powers are limited. If the State Duma rejects a draft budget from the Government, the budget is submitted to a Conciliation Commission having members from both branches.<sup>70</sup>

Besides the Ministries, in 1996, the Executive branch included eleven State Committees and forty-six State services and agencies, ranging from the State Space Agency (Glavkosmos) to the State Committee for Statistics (Goskomstat). There were also myriad Agencies, Boards, Centres, Councils, Commissions, and Committees. Prime Minister, Viktor Chernomyrdin's personal staff was reported to number about 2,000 in 1995.

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<sup>67</sup> *Supra* note 61.

<sup>68</sup> *Id.*

<sup>69</sup> *Organizational Structure: Russian Federation*, <http://www.apeccp.org.tw/doc/Russia/Organization/ruorg01.html> (last visited: May 14, 2012).

<sup>70</sup> *Id.*

After Putin took the Presidential post, the system was characterized with strengthened Presidential authority and languishing Legislative and Judiciary institutions. Putin built a hierarchy in which the Presidential institution subordinated all the other branches. He made a number of reforms, in spite of the decentralized character of Federalism which maximized the power concentration. With systematic centralization, he also made efforts to reach deinstitutionalization. First, by removing the powers of regional Governors, and secondly, by diminishing and limiting the independence of the media. He also fought some of the oligarchs through confiscating and jailing operations. Putin must be recognized for his execution of the important market reforms that strengthened the economy.<sup>71</sup>

Russia today is a hybrid between democracy and authoritarian state. Democratic institutions are already established and they appear to grow mature. However, it would take much longer for the democratic culture and economy to harden the power of the Constitution. Russia suffers lack of democratic experience and it possesses more than an authoritarian legacy.

### **THE RUSSIAN COURT SYSTEM**

The Russian Court System is composed of three essentially separate and distinct court systems. They are the: (1) Courts of General Jurisdiction; (2) Arbitrazh (or Commercial) Courts; and (3) Russian Federation (and in a few cases, "subject"-level) Constitutional Courts. In distinction to the legal system of the United States, both the Courts of General Jurisdiction and the Arbitrazh Courts have their own appellate structures, which do not eventually end up in a single final-instance Court such as the United States Supreme Court. With respect to Constitutional issues in the Russian system, if a Constitutional issue is encountered during the course of litigation in either the Courts of General Jurisdiction or in the Arbitrazh Courts, the Constitutional issue is referred out to the Constitutional Court, adjudicated there, and then reported back to the appropriate Non-Constitutional Court for further proceedings in accordance with the Constitutional Court's ruling.

In very broad terms, the Courts of General Jurisdiction adjudicate criminal and family disputes, as well as civil disputes between private individuals. The Arbitrazh Courts adjudicate disputes between business entities, although the phrase "business entity" includes individuals who are registered to do business. The Russian Federation Constitutional Court adjudicates matters which are governed by the Russian Federation Constitution. A small minority of subjects of the Russian Federation have sufficient political status to permit them to adopt their own "subject" Constitutions, and therefore, their own "subject" Constitutional Courts.

Given the civil law roots of the Russian legal system, it has historically been understood that judicial decisions have had no precedential effect. Modern Russian legal theorists argue, however, that a system of legal precedents is emerging, for two reasons. First, the decisions of the Russian Federation Constitutional Court are increasingly broadly disseminated, and through their dissemination, have become recognized as law. Second, pilot projects through which the decisions of the Karelian and Archangel Supreme Courts have been published, and more recently, through which jury trial decisions of the entire Northwest Administrative District (comprising 10 subjects of the Russian Federation) have been published, have led to a broader understanding of relevant lines of Court decisions. The resulting increase of awareness, within the legal

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<sup>71</sup> *Supra* note 60.

profession, of relevant decisional trends, continues to sow "precedential" seeds in what was once a purely civil law system.<sup>72</sup>

## **IMPORTANT MINISTRIES DEALING WITH TRADE POLICY IN RUSSIA**

The important Ministries of Russia include:

### **Ministry of Industry and Trade**

The Ministry of Industry and Trade is a federal agency under the executive branch responsible for:

- providing support for the export of industrial goods and ensuring market access for goods and services;
- carrying out research prior to the introduction of special safety, anti-dumping or compensation measures for the import of goods;
- adopting non-tariff regulations;
- state regulation of foreign trade (excluding customs and tariff regulation and matters related to the accession of the Russian Federation to the World Trade Organisation);
- technical regulation;
- drafting national policy and legal regulation for industry, including the defence industry, aviation technology development, technical standardisation and metrology, science and technology in defence and state security, and external and internal trade;
- providing state services and managing state property for engineering, and the metallurgical, chemical, pharmaceutical, biotechnological, medical, light, forest and wood product, electronic, aircraft and shipbuilding industries, for the communications industry, ammunition and special chemical industry, chemical disarmament, and conventional ammunition industry.<sup>73</sup>

### **Ministry of Agriculture**

The Russian Federation Ministry of Agriculture is the Cabinet-level agency responsible for support of agricultural production, soil conservation, rural development, agricultural market regulation, and financial stabilization of the farm sector. The current Minister of Agriculture is Nikolai Fyodorov.

In addition to being subdivided into functional departments, the Ministry of Agriculture supervises two subcabinet agencies- the Federal Service for Veterinary and Phytosanitary Surveillance (Rosselkhoznadzor) and the Federal Forestry Agency (Rosleskhoz).

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<sup>72</sup> *The Russian Court System*, <http://www.rarolc.net/programs/index.php?fid=0&lid=1> (last visited: May 17, 2012).

<sup>73</sup> *Id.*

## **The Ministry of Economic Development of the Russian Federation**

This a Federal Ministry in the Russian Government for developing state policy and providing regulation in the sphere of analysis and forecasting socio-economic and business development, including medium-sized and small businesses, foreign economic activity (except for foreign trade), property relations, bankruptcy and financial recovery, evaluation activities, land-related transactions (except for agricultural lands), the State Register of Real Estate, state cadastral record-keeping and cadastral activity, State Cadastral valuation of land, State monitoring of land (except for agricultural lands which is under the Russian Ministry of Agriculture), State Registration of Rights to Real Estate, geodesy and cartography, State statistical activities, investment activities and State investment, development of interstate and federal target programs (long-term target programs), departmental target programs, development and implementation of programs for Russia's socio-economic development, creation and maintenance of special economic areas in the Russian Federation, management of state material reserves, placement of orders for the delivery of goods, and the performance of work and services for state and municipal purposes. The current minister is Andrey Belousov, who was appointed as part of Dmitry Medvedev's Cabinet in May 2012.<sup>74</sup>

## **Ministry of Energy**

The Russian Ministry of Energy, since 2008, is the Russian Federal Ministry responsible for energy policy. The Ministry was created in May 2008 as part of a re-organization by the incoming government of President Dmitry Medvedev. It is headquartered in Moscow. The former Ministry of Industry and Energy was turned into the Ministry of Industry, whose present Minister is Viktor Khristenko, gaining responsibility for trade policy from the former Ministry of Economic Development and Trade, but losing responsibility for energy policy, which was split off into the new Ministry of Energy. The former Federal Agency for Energy (Rosenergo) was also merged into the new Ministry of Energy.<sup>75</sup>

## **Ministry of Natural Resources and the Environment**

The Ministry of Natural Resources and the Environment of the Russian Federation is a governmental agency within the Cabinet of Russia tasked with managing the country's natural resources and protecting the environment. The first Minister was Yuri Trutnev. The current Minister is Sergey Donskoy, who was appointed in May 2012.

The ancestor of the Ministry of Natural Resources and the Environment is the State Mining and Geological Service, established by Peter the Great on 2 October 1700. After the collapse of the Soviet Union, the Ministry of Environment and the Ministry of Natural Resources were created on 14 August 1996. They were combined to form the Ministry of Natural Resources and the Environment on 28 May 2008.

The Ministry of Natural Resources and the Environment is responsible for the creation and enforcement of policies and regulations dealing with the environment, including conservation, regeneration, forestry and wildlife protection. It is also responsible for the exploration, management and conservation of the country's natural resources, including the management of water supply, mineral deposit

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<sup>74</sup>*Supra* note 60.

<sup>75</sup> *Id.*

development, and the exploration of the country's territory and continental shelf. Finally, the Ministry is also in charge of regulating industrial and energy safety, and monitors geological and earthquake activities.<sup>76</sup>

### **Ministry of Finance**

The Ministry of Finance of the Russian Federation is a Federal Ministry responsible for general financial policy and for general management in the field of finance of the Russian Federation. The Ministry has two predecessors, the most notable one being the Ministry of Finance of the USSR who is itself the successor of the Ministry of Finance of the Russian Empire. Anton Siluanov served as the Minister of Finance of the Russian Federation since September 2011.

In the Soviet Union, the Ministry was renamed as the Ministry of Finance (MOF USSR), which combines the Treasury of the Soviet Republics, in particular the Ministry of Finance of the RSFSR.

The Ministry of Finance of the Russian Soviet Federative Socialist Republic was part of the Council of Ministers of the RSFSR and was under the authority of the Soviet Ministry of Finance under The Council of Ministers of the USSR, the official name of the Soviet government.

By Decree of the President of the RSFSR from 11 November 1991 (Presidential Decree № 190), the Ministry of Finance was merged with the Ministry of Economy and the new Ministry was called 'The Ministry of Economy and Finance of the Russian Federative Republic'. Under Resolution of the Government of the Russian Federative Soviet Republic (later the Government of Russia) from 15 November 1991 (Resolution № 8), the Ministry of Finance was liquidated and its businesses and organizations were transferred to the Ministry of Economy and Finance of the Russian Soviet Federative Socialist Republic.

From 25 December 1991 to 19 February 1992, the Ministry was called Ministry of Economy and Finance. By Presidential Decree of 19 February 1992 (Presidential Decree № 156), it was again divided into two ministries - the Ministry of the Economy and Finance Ministry.<sup>77</sup>

### **DEPARTMENTS**

- Department of Administration and Control
- Department of Budgetary Policy and Methodology
- Department of Tax Policy and Customs Schedule
- Department of State Debt and State Financial Assets
- Department of Financial Policy
- Department of Regional Budgets
- Department of Regulation of State Financial Control, Auditing, Accounting and Records

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<sup>76</sup> *Supra* note 72.

<sup>77</sup> *Id.*

- Law Department
- Department of Budgetary Policy in the sphere of Military and Law Enforcement Service and the State Defense Order
- Administrative Department
- Department of Budgetary Policy in the sphere of Social Welfare and Science
- Department of Budgetary Policy in the sphere of State Management, Judicial and Public Service
- Department of Development and Execution of Federal Budget
- Department of International Financial Relations
- Department of Information Technologies in the sphere of Budgeting and State and Local Finance Management.
- Department of Budgetary Policy in the sphere of Transport, Roads, Natural Resources and Agriculture
- Department of Budgetary Policy in the sphere of Innovation, Civil Industry, Energetics, Communication and Public-Private Partnership

#### **SUBORDINATE AUTHORITIES**

- Federal Tax Service
- Federal Service for Fiscal and Budgetary Supervision
- Federal Service for Insurance Supervision
- Federal Treasury of Russia
- Gokhran
- Goznak

#### **Ministry of Justice**

Ministry of Justice of Russia is the central government body charged with leading the legal and penal system of Russia. The current Justice Minister is Alexander Kononov.

According to the Decree of the President of the Russian Federation from 13 October 2004 (as amended on October 23, 2008) and in accordance with other regulations, the Ministry of Justice is engaged in the elaboration and implementation of public policies and regulatory control, as well as performs law enforcement duties and functions of control and supervision in the areas of:

- Execution of criminal penalties (by FSIN);

- Registered non-profit organizations, including the offices of international organizations and foreign non-governmental organizations, public associations, political parties and religious organizations, as well as providing information about them;
- Advocating and advocacy;
- Notaries and notarial activity;
- State registration of civil status;
- Ensure the established order of the Courts and the execution of judicial acts and other organs;
- Combating corruption (by help of the Prosecutor General of Russia);
- Anti-corruption expertise of draft laws;
- Anti-corruption expertise of draft laws spend accredited as an independent expert individuals and legal entities. As of 16 November 2010, an independent expert accredited 828 individuals and 164 legal entities. The decision on accreditation taking the Minister of Justice of the Russian Federation or one of its authorized deputy ministers, as issued an executive order. Accredited experts issued certificate.

The Ministry is headed by the Minister of Justice. He has seven deputies.

- Central office;
- The Department of Registration of Department Regulations;
- Department of Organization and Control;
- Department of Regulatory Analysis and Oversight of Penal and Judicial Decisions;
- Department of Civil Service and Personnel;
- Department of International Law and Co-operation;
- The Department of Constitutional Law;
- Department of Civil and Social Law;
- Department of Administration;
- Department for Non-Profit Organizations;
- Department of Legal Aid and Interaction with the Judicial System;
- Department of Legislative Activities and Monitor Enforcement;
- Representative of the Russian Federation to the European Court of Human Rights - Deputy Minister;

- Department Complaints on Criminal Matters;
- Division of Complaints in Civil Matters;
- Analysis Division Case Law, Organization and Control Execution;
- Front Office;
- Research Center of Legal Information;
- Federal Agency for the Legal Protection of Intellectual Activity of the Military, Special and Dual-use;
- Russian Legal Academy;
- State Legal Office;
- Forensic Expert Agency;
- Territorial Authorities of the Ministry of Justice.

### **Ministry of Labour and Social Affairs of the Russian Federation**

The Ministry of Labour and Social Affairs of the Russian Federation is the Federal Ministry that carries out the functions of public policy and legal regulation in the sphere of social protection and labor. The current Minister of Labour and Social Affairs is Maxim Topilin.

The jurisdiction of the Ministry include the functions of developing and implementing public policy and legal regulation in the demography, labor, living standards and incomes, wages, pensions, including non-government, social security, occupational safety and health, social partnership and industrial relations, employment and unemployment, labor migration, the alternative civil service, civil service (except for matters wages), social protection and social services, including social protection of families, women and children, guardianship of incapacitated adults, or not fully capable citizens, as well as the provision of prosthetic and orthopedic care, rehabilitation, medico-social examination.

Some other important agencies are:

### **Table: Federal Customs Service in Russia**

The Federal Customs Service (FCS) of Russia is a Federal Executive Authority, performing in accordance with the legislation of the Russian Federation the functions of control and supervision in the field of customs and the functions of a currency control agent and special functions of contraband control, abatement of other crimes and administrative violations. The Federal Customs Service (FCS) is under the jurisdiction the Ministry of Economic Development and Trade of the Russian Federation.

The FCS in its activity is guided by the Constitution of the Russian Federation, federal laws, decrees and regulations of the President of the Russian Federation, international agreements of the Russian Federation, regulatory legal acts of the Ministry of Economic Development and Trade of the Russian Federation, the Ministry of Finance of the Russian Federation and the Central Bank of the Russian Federation, and also by present Regulations.

The FCS operates directly, through customs houses and representative offices of the Service abroad, in cooperation with other federal executive authorities, executive authorities of the subjects of the Russian Federation, municipal authorities, the Central Bank of the Russian Federation, public associations and other organizations.<sup>78</sup>

### **Russian Competition Authority**

The first Russian Competition Authority was the State Committee of the Russian Federation for Antimonopoly Policy and Support of New Economic Structures, established in August 1990. Influence of time and changes taking place in the Russian economy demands improvement of legislation basis and institutions. Thus the federal status of Russian Competition Authority changed several times. In 1997, the State Committee of the Russian Federation for Antimonopoly Policy and Support of New Economic Structures was divided into two authorities - State Antimonopoly Committee (SAC Russia) inherited competition issues and the State Committee of the Russian Federation for Support and Development of Small Business inherited functions in the field of small business support. Following severe financial crisis in 1998, the Government of the Russian Federation was restructured. In 1998, pursuant to a Decree of the President of the Russian Federation, the Ministry of the Russian Federation for Antimonopoly Policy and Support of Entrepreneurship was established. It succeeded in carrying out the functions of the former State Antimonopoly Committee of the Russian Federation as well as the functions of the Federal Service for Regulation of Natural Monopolies in the fields of Transportation, Communication, and the State Committee of the Russian Federation for Support and Development of Small Business.<sup>79</sup>

In May 2004 in accordance with the Decree of the President of the Russian Federation of 9 March 2004 (Presidential Decree No. 314) on system and structure of executive power bodies, the Federal Antimonopoly Service (FAS Russia) was established. Its predecessor, the Ministry of the Russian Federation for Antimonopoly Policy and Support to Entrepreneurship was abolished by the same Decree. Functions of the

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<sup>78</sup> *Federal Customs Service*,

[https://www.usrbc.org/government/russian\\_government/russian\\_government\\_structure/article/461/](https://www.usrbc.org/government/russian_government/russian_government_structure/article/461/) (last visited: May 21, 2012).

<sup>79</sup> *Supra* note 69.

abolished Ministry were passed to FAS Russia with the exception of functions in the sphere of consumer rights protection, small business support, setting of tariffs in the sphere of communications and control over exchanges activity. Functions of control and supervision over natural monopolies, subjects activity in the sphere of transport and energy of the reorganized Federal Power Commission of the Russian Federation were added to FAS Russia.<sup>80</sup>

FAS Russia is an authorized federal executive power body responsible for prevention, restriction and suppression of monopolistic activity and unfair competition; for supervision of observance over Federal Law on Competition and Limitation of Monopolistic Activity at Commodity Markets, Federal Law on natural monopolies, Federal Law on protection of Competition on Financial Services Markets and Federal Law on advertisement. FAS Russia executes functions on developing and introducing legal acts and draft federal laws of its competence, control and supervision over competition at commodity markets, protecting competition at financial markets, control over the activity of natural monopolies and supervision over advertisement.

Head of the FAS Russia is appointed by and subordinated directly to the Prime Minister of the Government of the Russian Federation. Head of FAS Russia has four Deputy Heads. FAS Russia consists of a Central Office and 75 Regional Offices that are located all over the Russian Federation. Central office investigates cases with larger economic impact or involving national economic issues, and is responsible for organizing law enforcement activities and for providing the functioning of the system in general, including legislative work, analytical work and creation of methodological guidance for investigations, international cooperation, budgetary support, education measures. FAS Russia is composed of a number of departments responsible for legislation enforcement (Laws on Competition, Protection of Competition on Financial Services Market, Advertisement) and departments for specific functions within the Service (legal department, finance, staff, office administration).

Regional Offices are responsible for law enforcement in one or more of the Subjects of the Russian Federation, and take part in analytical work, policy development, and forecasting of economic conditions in their regions.<sup>81</sup>

### **Federal Agency on Technical Regulation and Metrology**

Federal Agency on Technical Regulation and Metrology (Rosstandart) is the name of the Russian government agency that serves as a national standardization body of the Russian Federation. Previously it was named Gosstandart of Russia.

In 2004, *Gosstandart of Russia* was folded into the *Russian Federation Ministry of Industry and Energy* and is now known as the *Federal Agency for Technical Regulation and Metrology*, or *Rostekhnregulirovaniye*. The new name reflects a new role the agency is supposed to play in the Russian government's effort to reduce barriers to trade and get the Russian economy more closely aligned with the global marketplace.

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<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

Rostekhregulirovaniye recently worked with representatives from the public and private sectors to develop a National Standards Strategy for the Russian Federation. Since the voluntary standards system in Russia is only beginning to emerge, Rostekhregulirovaniye continues its sponsorship and funding of the development of GOST R standards, the national standards of the Russian Federation.

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