



## **TRADE POLICY DEVELOPMENTS PAPER NO. 38**

**TRADE POLICY MONITORING REPORT**

**OF**

**RUSSIA**

**(OCTOBER 2012- DECEMBER 2012)**

**VOLUME IV**

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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

- The Russian economy faced a slowdown since the beginning of Q2 due to a reduction in investment, export growth and oil prices.
- On 3 October 2012, Russia notified its Antidumping, Subsidies and Countervailing measures, and Safeguards laws and regulations to the respective committees of the WTO as required under Article 18.5 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, Article 32.6 of the Agreement on Subsidies and Countervailing Measures and Article 12.6 Agreement on Safeguards.
- As per the Notification (G/LIC/N/1/RUS/1) under Article 1.4(a) and/or 8.2(b) of the Agreement on Import Licensing Procedure, Russia notified the Agreement on Common Measures of Non-Tariff Regulation in respect of Third Countries, Agreement on the Introduction and Application of Measures Concerning Foreign Trade in Goods on the Common Custom Territory in respect of Third Countries, the Agreement on Licensing in the Area of Foreign Trade in Goods and Decision No 134 of the Board of the Eurasian Economic Commission on Normative Legal Acts in the Area of Non-Tariff Regulations.
- The Agreement between Russia, Belarus and Kazakhstan established the fundamental principles for the creation of the Customs union and was notified on 21 December 2012. Further, an agreement between Russia and Serbia was notified on 21 December 2012, which establishes a free trade area for trade in goods as per Article XXIV(8)(b) of the GATT 1994 and further providing for liberalization of the trade in goods between these countries.
- Russia introduced a Vehicle Recovery Tax from August 2012. According to reports, the basic rate for a new passenger car could be 20,000-45,000 rubles (approx. \$612-\$1,375) and 150,000-400,000 rubles (\$4,584-\$12,225) for lorries and trucks. The fees for used vehicles are higher than for new ones.
- Russia entered into Trade agreements with Brazil, China and the US in the present quarter, which is discussed in detail under Trade agreements and arrangements.
- Since Russia has recently acceded to the WTO, Russia is likely to initiate an energy dispute at the WTO, which will be discussed in detail in the next trade policy monitoring report.

## TRADE POLICY MONITORING REPORT OF RUSSIA

### FOR THE QUARTERLY PERIOD: OCTOBER 2012- DECEMBER 2012

#### I. INTRODUCTION

This is the fourth 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: October - December 2012.

#### II. ECONOMIC ENVIRONMENT

During the present quarter, the GDP was the weakest in 2012 with growth around 2% year-on-year (y-o-y). The yearly growth for 2012 slowed down to 3.4% from 4.3% in 2011.<sup>1</sup>

During the present quarter, the Production and Services Index increased by 101.1% y-o-y and the Consumer Price Index increased by 101.4% on a y-o-y basis. In the year 2012, the monetary base as on 31 December 2012 included – Cash in circulation, including cash balances in bank vaults (77.45%); Credit institutions' correspondent accounts in Bank of Russia (14.17%); Required reserves (4.3%), Credit institutions deposits with the Bank of Russia (4.07%); and, bonds of the Bank of Russia (0.00%).<sup>2</sup>

The Russian economy faced a slowdown since the beginning of Q2 due to a reduction in investment, export growth and oil prices.<sup>3</sup> While the growth has been projected to 3.7%, high inflation remains a key concern. Other factors contributing to the sluggish growth are low agricultural production and a decline in consumer spending.<sup>4</sup> Worsening of the global economy is another factor that would affect the Russian growth. While Russia remains vulnerable to a decline in oil prices, its non-oil deficit declined but a lot more needs to be done to ensure further reduction.<sup>5</sup>

#### III. RUSSIA'S ACCESSION TO THE WTO

After Russia's accession to WTO, it made specific commitments according to part IV of the arrangement. Accession is just the beginning because trade liberalisation alone will not fix all the trouble that ail any economy. Russia's economy has many positives but it also faces many challenges.

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<sup>1</sup> '04.02.2013 - Russia: GDP growth slows down to 3.4% in 2012 on weaker investment', [http://www.rbinternational.com/eBusiness/01\\_template1/826124957350877869-826100030434411352-880859105206490883-NA-1-NA.html](http://www.rbinternational.com/eBusiness/01_template1/826124957350877869-826100030434411352-880859105206490883-NA-1-NA.html) (last visited 24 Feb. 2013).

<sup>2</sup> 'Bulletin of Banking Statistics 2013, № 1 (236)', <http://www.cbr.ru/eng/publ/BBS/Bbs1301e.pdf> (last visited 25 Feb. 2013).

<sup>3</sup> International Monetary fund, 'Russian Federation—Concluding Statement for the January 2013 Staff Visit', <http://www.imf.org/external/np/ms/2013/012313.htm> (last visited 25 February 2013).

<sup>4</sup> Russia Economic Report: December 2012, [www.ukti.gov.uk/download/file/415100.html](http://www.ukti.gov.uk/download/file/415100.html) (last visited 25 February 2013).

<sup>5</sup> *Ibid.*

At the crux is the need to shift the economy's centre of gravity away from resource extraction and into higher-technology manufacturing and services. This is essential to broadening the base of prosperity, which is already high on the agenda of Russia's leaders.

Implementing Russia's WTO commitments will help with this effort:

- by improving the quality of regulation,
- by increasing competition – and therefore productivity – in important industries, and
- by providing new market access abroad for Russian companies in sectors like steel, chemicals and food and drink.

But these changes will not be enough on their own. The modernization project requires Russia to go further – addressing weaknesses in the rule of law, strengthening the financial system, promoting innovation, building infrastructure and attracting more foreign investment.<sup>6</sup>

#### **IV. TRADE AGREEMENTS AND ARRANGEMENTS**

##### **Russia and Brazil**

On 13 December 2012 Russian President met Brazilian President Dilma Rousseff, where they decided to increase trade substantially. The companies have planned to do intersecting projects.

These countries have closely cooperated in the G20 and BRICS and also the IMF. Dilam Rouseff said their cooperation will help strengthen their relations in the organization. The Russian Presidency of the G20 will greatly enhance the cooperation both in the G20 as well as in the BRICS format.<sup>7</sup>

##### **Russia and China**

In December 2012, Russia signed an agreement with China with a focus on energy and trade. The two countries are keen to further expand bilateral trade and intend to meet a target of \$100 billion worth bilateral trade by the end of 2015.<sup>8</sup>

##### **US-Russian Economic Ties**

US- Russian trade is governed by Title IV of the Trade Act of 1974, which sets conditions on Russia's normal trade relations (NTR), including the "freedom-of-emigration".

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<sup>6</sup> Press Release, 'Speech After WTO Accession: Reform and EU-Russia Trade Relations', [http://europa.eu/rapid/press-release\\_SPEECH-12-901\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-12-901_en.htm) (last visited 25 February 2013).

<sup>7</sup> 'Dmitry Medvedev meets with Brazilian President Dilma Rousseff', <http://government.ru/eng/docs/21891/> (last visited 25 February 2013).

<sup>8</sup> Qin Jize, Cheng Guangjin, 'China inks energy and trade deals with Russia', [http://www.chinadaily.com.cn/cndy/2012-12/07/content\\_15993907.htm](http://www.chinadaily.com.cn/cndy/2012-12/07/content_15993907.htm) (last visited 23 February 2013).

Permanent Normal Trade Relations (PNTR) for Russia became an issue for the 112<sup>th</sup> Congress because, on 22 August 2012, Russia joined the WTO after having completed a 19-year accession process. The WTO requires each member to accord newly acceding members “immediate and unconditional” most-favored-nation (MFN) status, or PNTR. In order to comply with WTO rules, the United States needs to extend PNTR to Russia.

PNTR was a major issue in Russia’s accession to the WTO. When Title IV still applied to Russia at the time of its WTO accession, the United States invoked non-application of WTO rules, procedures, and agreements in its trade with Russia. As a result, many of the commitments that Russia made in joining the WTO might not have been applicable to the United States. (Under the 1992 U.S.-Russia bilateral trade agreement, Russia was obligated to apply non-discriminatory tariff treatment to imports from the United States.)

On 16 November 2012 and on 6 December 2012, the House passed (365-43) and the Senate passed (92-4) H.R. 6156 (365-43). The President signed the bill into law on 14 December 2012. The law removes the application of Title IV to trade with Russia and authorizes the President to grant PNTR to Russia by proclamation.<sup>9</sup>

### **Agreement between Russia, Belarus and Kazakhstan**

The Agreement between Russia, Belarus and Kazakhstan established the fundamental principles for the creation of the Customs Union and was notified on 21 December 2012. Further, an agreement between Russia and Serbia was notified on 21 December 2012, which establishes a free trade area for trade in goods as per Article XXIV(8)(b) of the GATT 1994 and further providing for liberalization of the trade in goods between these countries.

As per the Federal Law No. 185-FZ on Amendments to Article 131 of the Federal Law on the Legal Status of Foreign Citizens in the Russian Federation, migrants are now mandated to take the Russian Language tests.<sup>10</sup> An amendment to the "Federal Law on Migration Registration for Foreign Citizens and Stateless Persons in the Russian Federation" simplified the visa formalities for highly qualified specialists.

## **IV. TRADE POLICIES BY MEASURE**

### **IV A. TRADE RESTRICTIONS**

#### **Trade Restrictions on US Pork Exports to Russia**

On 17 December 2012, Russia announced restrictions on US pork containing the feed additive ractopamine. Indeed of the fact that the US Food and Drug Administration approved it as a safe feed. Russian officials said the U.S pork contained ractopamine in which there is risk of destruction of re-export because it violates Customs Union regulations.

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<sup>9</sup> William H. Cooper, ‘CRS Report for Congress Prepared for Members and Committees of Congress Permanent Normal Trade Relations (PNTR) Status for Russia and U.S.-Russian Economic Ties’, <http://www.fas.org/sgp/crs/row/RS21123.pdf> (last visited 25 February 2013).

<sup>10</sup> ‘Taxonomy: Type of Measure - Migration measure’, <http://www.globaltradealert.org/taxonomy/measure-type/migration-measure> (last visited 25 February 2013).



There has been no testing and certification program to detect ractopamine residues in pork or beef according to the National Pork Producers Councils (NPPC) and the US Department of Agriculture.

Nick Giordano, US' NPPC vice president said that it is not about ractopamine but about protectionism and using production practices (and products used in the production process) as a basis to restrict exports.<sup>11</sup>

### **Russia lifted the 18-month import ban on Brazilian meat products**

In November 2012, Russia announced that it would lift its import ban on meat products including meat, pork and poultry from three Brazilian states namely; Mato Grosso, Parana and Rio Grande do Sul, which it had imposed eighteen months ago in June 2011.<sup>12</sup> The decision to suspend the embargo was made once Brazilian veterinarian authorities had confirmed that the previous violations of Russia's veterinary and sanitary rules had been addressed. The two countries also reached an agreement that every consignment of meat products to Russia would be accompanied by a declaration authorizing the confirmation of an absence of the growth hormone ractopamine. Russian authorities have warned in case ractopamine traces are found to be present in subsequent consignments, then Brazil could risk a blanket ban on its Russian meat exports altogether.<sup>13</sup>

### **Russia limits drug purchasing by overseas enterprises**

Russia's government is set to limit state purchasing of pharmaceuticals from overseas, following the country's accession to the World Trade Organization. A move of prohibiting state drug-buying tenders from being filled by overseas suppliers comes in the wake of recent proposals to protect and boost the domestic drug industry, put forward by the Ministries of Economic Development and of Trade and Industry. Drug makers in Belarus are however immune to this new state tender policy and will therefore still be able to purchase tenders for pharmaceutical supplies.<sup>14</sup>

## **IV B. TARIFF RATE QUOTAS**

### **Tariff Quota import regime**

On 13 December 2012, Russia came up with its overall quota for frozen beef that had no changes for 2013. The majority of Australian beef exports to Russia are frozen, with 97% of shipment year-to-date-frozen product.

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<sup>11</sup> Joe Vansickle, 'Trade Restrictions Placed on U.S. Pork Exports to Russia', <http://nationalhogfarmer.com/marketing/trade-restrictions-placed-us-pork-exports-russia> (last visited 25 February 2013).

<sup>12</sup> 'Russia cagey over meat restrictions as ractopamine spat continues', <https://agra-net.com/portal2/home.jsp?template=pubarticle&artid=1352107235326&pubid=ag002> (last visited 24 February 2013).

<sup>13</sup> Carina Perkins, 'Russia set to lift Brazilian meat embargo', Russia is close to lifting a ban on imports of beef, pork and poultry from the Brazilian states of Mato Grosso, Parana and Rio Grande do Sul, <http://www.globalmeatnews.com/Industry-Markets/Russia-set-to-lift-Brazilian-meat-embargo> (last visited 24 February 2013).

<sup>14</sup> Lynn Taylor, 'Russia set to limit foreign drug purchasing', [http://www.pharmatimes.com/Article/13-01-02/Russia\\_set\\_to\\_limit\\_foreign\\_drug\\_purchasing.aspx](http://www.pharmatimes.com/Article/13-01-02/Russia_set_to_limit_foreign_drug_purchasing.aspx) (last visited 24 February 2013).

The quota for chilled beef is set to increase in 2013, from 30,000 tonnes to 40,000 tonnes. The EU has access to 29,000 tonnes of this chilled quota, while access for other countries is set to increase from 1,000 tonnes to 11,000 tonnes. This will provide increased access for Australian chilled beef into the Russian market. Currently, chilled beef shipped to Russia outside this quota and not classified as 'High Quality Beef', attract a 50% tariff. High quality beef, currently defined as any beef entering Russia at greater than €8/kg, attracts a 15% tariff, with most Australian chilled product entering under this arrangement.<sup>15</sup>

Australian beef exports to Russia throughout 2012 have been sluggish compared to 2011, back 40% year-on-year at the end of October, totalling 29,938 tonnes swt. Contributing to the slowdown in shipments has been strong demand for Australian manufacturing product (traditionally Australia's highest volume export to Russia) from the US and China. A significant devaluation in the Brazilian currency, combined with cheap product coming out of Paraguay has also made it difficult for Australian product to compete on price in the Russian market.

### **Russia Raised Beef and Poultry Quotas for 2013**

On 18 December 2013, Russia released the regime of its meat import for 2013, in which they had raised tariff rate quotas (TRQ) for chilled beef and poultry and created a new TRQ for whey.

This has been done to increase tariff so that Russia would be able to fulfill its new commitments as a member of the World Trade Organization on the back of recently announced alterations to quotas for 2012.

### **Russia published tariff quotas for the imports for the meat in 2013**

On 21 November 2012, Eurasian Economic Commission published its Decision 229. The list was of the goods that were subjected to Tariff-Rate Quotas and Volume of Tariff-Rate for Imports of these Goods into the Member States of the Customs Union and Common Economic Space.

According to this Decision, the Russian import tariff quotas for pig meat are set at 430,000 tons, without changes with respect to the previous year.

### **Import of ozone depleting substances**

The temporary quota on the import of ozone depleting substances in Russia was to remain effective till 31 December 2012. It was introduced by the Commission of the Customs Union of Russia, Belarus and Kazakhstan on 5 July 2012.<sup>16</sup> The Collegium of the Customs Union of Russia, Belarus and Kazakhstan

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<sup>15</sup> 'Russia releases 2013 import regime', <http://www.mla.com.au/Prices-and-markets/Market-news/Russia-releases-2013-import-regime>, (last visited 25 February 2013).

<sup>16</sup> 'Russian Federation: Temporary restrictions on imports of ozone-depleting substances', <http://www.globaltradealert.org/measure/russian-federation-temporary-restrictions-imports-ozone-depleting-substances> (last visited 25 February 2013).

increased the import duty on data processing machines from 0 to 10 percent which were at the custom value of upto \$ 3,000.<sup>17</sup>

#### IV C. SANITARY AND PHYTOSANITARY MEASURES

A letter issued by the Federal Service for Veterinary and Phytosanitary Supervision on 21 December 2012 seeks to eliminate the temporary restriction on the import of boneless beef, meat of small cattle from the UK. Similarly, import restrictions on beef tongues from EU have been removed. Further, imports of live pigs, boar semen, pork and raw pork products and pork goods which were not heat treated (no less than 70°C) from Latvia have been restricted due to the outbreak of swine flu in Latvia. Similar restrictions have been imposed on the import of small cattle and the genetic material of such animals from Finland and Austria due to the detection of seropositive animals of Schmallenberg virus in these countries.

| Notification  | Description   |
|---|---|
| 1.Notification of Emergency Measures, <b>G/SPS/N/RUS/2, 10 December 2012</b>  | Temporary restriction on the transit through the territory of the Russian Federation of cattle and small cattle from Austria. |
| 2. Notification of Emergency Measures, <b>G/SPS/N/RUS/1, 10 December 2012</b> | Temporary restriction on the transit of cattle from Finland to Russia.  |
| 3.Notification of Emergency Measures, <b>G/SPS/N/RUS/3, 19 December 2012</b>  | Temporary restriction on import of live pigs, boar semen, pork and raw pork products and pork goods from Latvia to Russia.    |
| 4.Notification <b>G/SPS/N/RUS/5, 21 December 2012</b>                         | Elimination of temporary restriction on export of beef tongues to Russia  |
| 5.Notification <b>G/SPS/N/RUS/4, 21 December 2012</b>                         | Elimination of temporary restriction on export of boneless beef, meat of small cattle to the Russian Federation               |

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<sup>17</sup> 'The Customs Union of Russia, Belarus and Kazakhstan: Increased import tariffs on data processing machines', <http://www.globaltradealert.org/measure/customs-union-russia-belarus-and-kazakhstan-increased-import-tariffs-data-processing-machine> (last visited 25 February 2013).

#### IV D. CUSTOMS

As per the notification dated 17 October 2012 under Article 22 of the Agreement on the Implementation of Article VII of the GATT 1994,<sup>18</sup> Russia notified the following laws with respect to custom valuation:

- Federal Law on Customs Regulation, No. 311-FZ of 27/11/10;
- Customs Union Agreement on determination of customs valuation of goods transferred through the customs border of the customs border of the Customs Union of 25/01/08;
- Resolution of the Government of the Russian Federation No. 500 of 13/08/06;
- Resolution of the Government of the Russian Federation No. 191 of 06/03/12;
- Federal law on the Customs Tariff of the Russian Federation (attached);
- Customs Union Commission decision No. 376 from 20/09/11.
- Customs Code of the Customs Union.

Article 4 of the Agreement on Custom Valuation of the Goods transferred through the customs border of the customs union states that the customs valuation of the imported goods shall be based on the price of transaction of these goods, that is, the price actually paid or liable to be paid at their sale for importing to the common customs area of the customs union. Article 5 lays down further conditions which may increase the price required to be paid.

Further, on 2 October 2012, Russia implemented the Decision of the Customs Valuation Committee on the Treatment of Interest Charges in the Customs Value of Imported Goods with effect from 18 July 2004, and Paragraph 2 of the Decision of the Customs Valuation Committee on the valuation of carrier media bearing software for data processing equipment with effect from 17 April 2006.<sup>19</sup> The former decision states that interest charges included in the price actually paid or payable for imported merchandise are not to be considered as part of the custom value interest where:

1. The interest charges are identified separately from the price actually paid or payable for the goods;
2. the financing arrangement in question was made in writing;
3. where required by Customs, the buyer can demonstrate that:
  - i. the goods undergoing appraisalment are actually sold at the price declared as the price actually paid or payable, and the claimed rate of interest does not exceed the level for such transaction prevailing in the country where and when the financing was provided.

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<sup>18</sup> Committee on Custom Valuation, G/VAL/N/1/RUS/1, 17 October 2012.

<sup>19</sup> Committee on Custom Valuation, G/VAL/N/3/RUS/1, 2 October 2012.

In case of the latter decision, it was decided that “in determining the Customs Value of importer carrier media bearing data or instructions, only the cost or value of the carrier medium itself shall be taken into account. The Customs value shall not, therefore, include the cost or value of the data or instructions, provided that this is distinguished from the cost or the value of the carrier medium.”<sup>20</sup>

### **Korea- Russia Customs Cooperation**

The Head of the Customs Service of the Republic of Korea and the head of the Russian Federal Customs Service (FCS) met on 27 November 2012 for their 11<sup>th</sup> annual meeting, where they both expressed their satisfaction regarding the progress of the customs cooperation development taking place between the two countries. They also discussed how cooperation in the field of law enforcement was bringing positive outcomes.

Russia proposed to organize a workshop with the support of the Commercial Department of South Korea Embassy in the Russian Federation (KOTRA), with the intention of attracting activity among Korean foreign participants. This workshop would be dedicated to Russian FCS activities in accordance with the framework of the Customs Union.

Cooperation in all kinds of customs affairs, with a series of meetings at the expert level and exchanging personnel during the course of 2013 was also discussed, with both parties showing their readiness for this.<sup>21</sup>

### **Estonian and Russian customs cooperate to fight customs crime**

A planned agreement for fighting customs crime was signed in November 2012 between the Russian FCS Deputy Head in Law Enforcement and the Deputy Director General of the Estonian Tax and Customs Board.

The fight against illegal handling of drugs and their source materials, illegal trade with tobacco products and customs fraud with respect to goods of high value will be among the high priorities.

The Estonian side emphasized how cooperation and information exchange between states is important in order to fight organised crime which works across borders.<sup>22</sup>

### **4th session of Customs Collaboration Subcommittee of Committee for Preparation of Regular Meetings of Government Executives of Russia and China**

A Russian delegation led by the First Deputy of their FCS Head and a Chinese delegation led by the Deputy Chairman of the Main Customs Office of the People’s Republic of China met for the 4<sup>th</sup> session of Customs

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<sup>20</sup> 'Valuation of carrier media bearing software for data processing equipment' <http://www.dov.gov.in/newsite3/dec4-1.asp> (last visited 25 February 2013).

<sup>21</sup> 'Korean Businessmen will be Told about Russian Customs', [http://eng.customs.ru/index.php?option=com\\_content&view=article&id=1804:korean-businessmen-will-be-told-about-russian-customs&catid=32:news-cat&Itemid=1858&Itemid=1857](http://eng.customs.ru/index.php?option=com_content&view=article&id=1804:korean-businessmen-will-be-told-about-russian-customs&catid=32:news-cat&Itemid=1858&Itemid=1857) (last visited 23 Feb. 2013).

<sup>22</sup> 'Estonian and Russian customs cooperate to fight customs crime', <http://www.baltictimes.com/news/articles/32148/> (last visited 22 Feb. 2013).

Collaboration of Committee for Preparation of Regular Meetings of Government Executives of Russia and China.

In the meeting, the two parties discussed the state of collaboration between the Customs Services of their countries along with the results of their efforts and cooperation post the 3<sup>rd</sup> session of their subcommittee. They considered and discussed many issues, like collaboration in customs registration and customs control procedures, customs fees, law enforcement, borderline collaboration, intellectual property rights protection, trade statistics, as well as reduction of risks of customs law violations.

Within the framework of this subcommittee, a plan was signed for the years 2012-2013, which is designed to carry out cooperative activities of the Main Directorate for Smuggling Control of Russian FCS and the Department for Smuggling Control of PRC Customs.<sup>23</sup>

#### **IV E. IMPORT LICENSING**

As per the Notification under Article 1.4(a) and/or 8.2(b) of the Agreement on Import Licencing Procedure,<sup>24</sup> Russia notified the Agreement on Common Measures of Non-Tariff Regulation in respect of Third Countries, Agreement on the Introduction and Application of Measures Concerning Foreign Trade in Goods on the Common Custom Territory in respect of Third Countries, the Agreement on Licensing in the Area of Foreign Trade in Goods and Decision No. 134 of the Board of the Eurasian Economic Commission on Normative Legal Acts in the Area of Non-Tariff Regulations.

In case of the Agreement on the Introduction and Application of Measures Concerning Foreign Trade in Goods on the Common Custom Territory in respect of Third Countries, the Agreement provides for the regulation on introduction and application of measures concerning foreign trade in goods. Further, the Agreement on Licensing in the Area of Foreign Trade in Goods defines a procedure for issuance of licences and export and/or import permits for goods listed in the single list of goods, to which prohibitions and restrictions on their import or export by the member states of the Customs Union shall be applied. Moreover, the Decision approves the Common List of Goods that might be subject to Non-Tariff Measures.

#### **IV F. RULES OF ORIGIN**

With respect to the notification under Article 5 and Annex II:4 of the Agreement on the Rules of Origin, the following changes have been made<sup>25</sup>:

“At the date of entry into force of the WTO Agreement for the Russian Federation, the non-preferential rules of origin are applied at the level of the Customs Union of the Republic of Belarus, the Republic of

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<sup>23</sup> ‘4th session of Customs Collaboration Subcommittee of Committee for Preparation of Regular Meetings of Government Executives of Russia and China’, [http://eng.customs.ru/index.php?option=com\\_content&view=article&id=1769:4th-session-of-customs-collaboration-subcommittee-of-committee-for-preparation-of-regular-meetings-of-government-executives-of-russia-and-china&catid=32:news-cat&Itemid=1858&Itemid=1857](http://eng.customs.ru/index.php?option=com_content&view=article&id=1769:4th-session-of-customs-collaboration-subcommittee-of-committee-for-preparation-of-regular-meetings-of-government-executives-of-russia-and-china&catid=32:news-cat&Itemid=1858&Itemid=1857) (last visited 21 Feb. 2013).

<sup>24</sup> Committee on Import Licensing, G/LIC/N/1/RUS/1, 22 October 2012.

<sup>25</sup> G/RO/N/84/Corr.1, 13 December 2012.

Kazakhstan and the Russian Federation as provided for by the following international treaty which the Russian Federation is a contracting party to:

- The Agreement on Common Rules for Determining of the Country of Origin of Goods, of 25 January 2008.

The rules of general application on some aspects of customs procedures in respect of the rules of origin are also set forth by the following documents:

1. Articles 109-111 of the Federal Law No. 311-FZ of 27 November 2010 "On Customs Regulation in the Russian Federation"; and
2. Chapter 7 of the Customs Union Customs Code."

## **V. TRADE REMEDY MEASURES**

On 3 October 2012, Russia notified its Antidumping, Subsidies and Countervailing measures, and Safeguards laws and regulations to the respective committees of the WTO as required under Article 18.5 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, Article 32.6 of the Agreement on Subsidies and Countervailing Measures and Article 12.6 Agreement on Safeguards.<sup>26</sup> The notification included the following laws and regulations:

1. Agreement on the application of safeguards, antidumping and countervailing measures against third countries of 25 January 2008;
2. Agreement on the application of safeguard, antidumping and countervailing measures in transitional period of 19 November 2010;
3. CU Commission Decision No. 339 of 17 August 2010 "On the application of safeguard, antidumping and countervailing measures the common customs territory of the Customs Union within EurAsEC";
4. Decision of the EEC Board of 7 March 2012 No. 1 "On some issues of safeguard, antidumping and countervailing measures in the common customs territory of the Customs Union";
5. Provision for the use and protection of confidential information and proprietary information of limited distribution in the body responsible for investigating of 7 March 2012;
6. Regulation making and draft decisions of the Eurasian Economic Commission for safeguard, antidumping and countervailing measures of 7 March 2012;
7. Board of EEC Decision No. 44 of 16 May 2012 "On some issues of protection of the domestic market";

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<sup>26</sup> G/ADP/N/1/RUS/1, G/SCM/N/1/RUS/1, G/SG/N/1/RUS/1, October 3 2012.

8. Protocol on granting authority conducting the investigation, the data containing including confidential information for the purpose of investigation, prior to the introduction of safeguard, antidumping and countervailing measures in relation to third countries of 19 November 2010.

In this context, it is important to note that Article 4 of the Agreement on the application of safeguards, antidumping and countervailing measures against third countries (January 25, 2008) defines the general principles for the use of safeguard measures, whereas Article 9 lays down the scope of application for antidumping measures.

In the meantime, Russia and the European Union raised concerns with respect to certain 'protectionist' policies adopted by each other. As per the Decision No.7 dated 31 August 2012, the Eurasian Economic Commission initiated a safeguard investigation on porcelain tableware from the Commodity Nomenclature for Foreign Economic Activity of the Customs Union of Russia, Belarus and Kazakhstan.<sup>27</sup> The Commission also initiated a safeguard investigation on tableware and kitchenware of porcelain.<sup>28</sup> Further, the Eurasian Economic Commission of the Customs Union of Russia, Belarus and Kazakhstan reduced the import duties on molybdenum according to Decision 264 dated 11 December 2012.<sup>29</sup> Moreover, the Customs Union of Russia, Belarus and Kazakhstan also introduced an import duty of USD 0.45 per kg of activated carbon that shall remain valid till 7 September 2014.<sup>30</sup>

On 18 October 2012, the Eurasian Economic Commission of the Customs Union of Russia, Belarus and Kazakhstan (according to Decision No. 186) approved the reduction of tariffs for base metal goods with the following codes from the Commodity Nomenclature for Foreign Economic Activity of the Customs Union of Russia, Belarus and Kazakhstan: 8308 10 000 0, 8308 90 000 0, 8426 49 001 0, 8429 11 002 0. The new tariffs will be implemented on 18 November 2012.<sup>31</sup>

For the purpose of modernization of health care services, the Russian Government approved a subsidy amounting to 8,712,618,000 Russian Roubles to 51 domestic recipients (and not foreign producers) on 22 October 2012.<sup>32</sup> Lastly, an import ban on seal products was imposed by the Eurasian Economic

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<sup>27</sup> 'The Customs Union of Russia, Belarus and Kazakhstan: Initiation of a safeguard investigation on ceramic tableware', <http://globaltradealert.org/measure/customs-union-russia-belarus-and-kazakhstan-initiation-safeguard-investigation-ceramic-table> (last visited 25 February 2013).

<sup>28</sup> 'Russian Federation: Initiation of a safeguard investigation on tableware and kitchenware of porcelain', <http://www.globaltradealert.org/measure/russian-federation-initiation-safeguard-investigation-tableware-and-kitchenware-porcelain> (last visited 25 February 2013).

<sup>29</sup> 'Taxonomy: Implementing Jurisdiction - Kazakhstan', <http://www.globaltradealert.org/taxonomy/implementing-jurisdiction/kazakhstan> (last visited 25 February 2013).

<sup>30</sup> 'The Customs Union of Russia, Belarus and Kazakhstan: Safeguard duty on imports of activated carbon', <http://www.globaltradealert.org/measure/customs-union-russia-belarus-and-kazakhstan-safeguard-duty-imports-activated-carbon> (last visited 25 February 2013).

<sup>31</sup> 'Customs Union, Russia, Belarus and Kazakhstan tariff reduction base metal products', <http://www.globaltradealert.org/measure/customs-union-russia-belarus-and-kazakhstan-tariff-reduction-base-metal-products> (last visited 24 February 2013).

<sup>32</sup> 'Russian Federation subsidy healthcare modernisation', <http://www.globaltradealert.org/measure/russian-federation-subsidy-healthcare-modernisation> (last visited 24 February 2013).



Commission from the Commodity Nomenclature for Foreign Economic Activity of the Customs Union of Russia, Belarus and Kazakhstan.<sup>33</sup>

Russia imposed rules that prohibit the import of pork and beef containing ractopamine from USA due to safety concerns arising from the presence of ractopamine. While the European Union, China and several other countries have disapproved ractopamine, many countries believe that it is safe in terms of use.<sup>34</sup> It is in this context that USA has alleged that the stated ban is against the WTO obligations undertaken by Russia.<sup>35</sup>

## **VI. MEASURES AFFECTING PRODUCTION AND TRADE**

### **VI A. PUBLIC PROCUREMENT**

#### **Technological advances in modes of data procurement**

In accordance with the Federal Law No. 223-FZ on the procurement of goods, works and services by individuals or individual legal entities, adopted on 18 July 2011, a customer is required to post procurement information on the official website of the Russian Federation which is [zakupki.gov.ru](http://zakupki.gov.ru). This particular provision was made enforceable from 1 October 2012 onwards. The provision was framed with the intention of integrating the data interface between the marketplace and a variety of external systems, including corporate information systems, other electronic platforms, etc.<sup>36</sup>

### **VI B. TAX AND TAX RELATED MATTERS**

Russia introduced a Vehicle Recovery Tax from August 2012. According to reports, the basic rate for a new passenger car could be 20,000-45,000 rubles (approx. \$612-\$1,375) and 150,000-400,000 rubles (\$4,584-\$12,225) for lorries and trucks. The fees for used vehicles are higher than for new ones.

The introduction of the levy of 'vehicle recovery tax' for the purpose of re-cycling car and automobiles is accompanied by an exemption for those automobile importers who would re-cycle it themselves. It is for this reason that the Russian automakers have started re-cycling cars on a large scale within a span of just a few months.<sup>37</sup> Moreover, while the introduction of such tax has been justified on

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<sup>33</sup> 'Customs union, Russia, Belarus and Kazakhstan import ban seal products', <http://www.globaltradealert.org/measure/customs-union-russia-belarus-and-kazakhstan-import-ban-seal-products> (last visited 24 February 2013).

<sup>34</sup> 'Russia to Ban US Pork, Beef over Growth Drug Residues' [http://www.abajournal.com/news/article/russia\\_to\\_ban\\_u.s.\\_pork\\_beef\\_over\\_growth\\_drug\\_residues/](http://www.abajournal.com/news/article/russia_to_ban_u.s._pork_beef_over_growth_drug_residues/) (last visited 24 February 2013).

<sup>35</sup> 'US Rips Russia's New Meat Exports Restrictions', <http://www.law360.com/internationaltrade/articles/400176/us-rips-russia-s-new-meat-exports-restrictions> (last visited 24 February 2013).

<sup>36</sup> 'Purchases under the 223-FZ', <http://www.b2b-center.ru/buyers/223fz.html?show=integration&lang=eng> (last visited 24 February 2013).

<sup>37</sup> 'Protectionism For Russia's Automakers, With "Recycling" Tax On Foreign Imports', <http://worldcrunch.com/business-finance/protectionism-for-russia-039-s-automakers-with-quot-recycling-quot-tax-on-foreign-imports/wto-tax-vehicle-recovery-moscow/c2s10247/> (last visited 24 February 2013).

grounds of environmental concerns, EU suspects that it is protectionist in nature as it is applied to imports of automobiles.<sup>38</sup>

### **Tax free system can come to Russia**

A proposal of a tax-free system in Russia was put forward at the meeting of the expert Council of the Russian Chamber of Commerce on improvement of tax legislation and law enforcement practice which took place in October 2012. If this proposal is approved, return of part of the purchase price of products in Russia will be made available to foreign tourists in the territory of the whole Customs Union.

It was observed in the meeting that in such tax-free conditions, the need for foreign tourists to fund another country's treasury is eliminated, and on the other hand, there is a growth of retail trade as substantial discounts encourage the tourists to buy more and more, as seen in the case of Sweden who has become a pioneer of such a system.

Earlier, the minimum amount of purchase required to get a refund of VAT was very high, but in recent times this amount has been lowered significantly, varying from 30 (Germany) to 175 (France) Euros. In Russia, it is now proposed to establish a threshold minimum value of 2000 roubles. According to the Director of the Chamber, this step will considerably increase the interest of foreign visitors in shopping in Russia.

However, the representatives of retail trade were sceptical regarding this step, as it would require a long process even if passed, and for its passing, amendments would have to be made to the Customs and tax codes, which would again, have to be approved by the Ministry of Finance and the government.

The proposal had been sent to their Ministry of Finance, and if the necessary amendments in the Russian legislation are successfully passed, other necessary changes required for the implementation of this system are expected to be made shortly.<sup>39</sup>

### **BAT and Imperial Tobacco Slide on Proposed Russian Tax Boost**

The Russian Health Ministry proposed raising cigarette taxes almost eightfold from the end of 2012. Russia is currently the second-largest tobacco market.

Under the policy in place at that time, excise taxes were scheduled to be increased at the rate of 40 percent a year between then and the end of 2014.

Experts believe that if the law is passed, profit growth from Russia for the Tobacco companies would slow down significantly, and Russian cigarette volumes would be pushed down by as much as 20 percent.<sup>40</sup>

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<sup>38</sup> *Ibid.*

<sup>39</sup> 'Tax free system can come to Russia', <http://www.instar.ru/eng/index.php?name=news&op=view&id=232> (last visited 23 Feb. 2013).

## **Russia pledges no tax rises over next 6 years**

In December 2012, Russia's First Deputy Prime Minister stated that during the Presidency of Vladimir Putin, Russia plans no changes in taxation apart from tax cuts.

At a meeting of international investors at the New York Stock Exchange, the Deputy Prime Minister stated that during the term of the current President, they would try and stick with the existing policies and make all the major tax decisions. He added that whatever changes that would take place in the near future would improve the condition of the taxpayer.

Earlier also, President Putin had issued a statement saying that the tax burden of the non-commodity sector of the economy will not increase until 2018, but experts all over are doubting whether Russia can keep this promise. Many of them believe that an increase in taxes is inevitable for the country. Some of them are of the view that Russia can only keep the taxation at the same level if oil prices do not increase, which is very unlikely. Also, special taxes in the oil and gas sector in Russia are likely to be the subject of changing taxation in the near future.

## **VI C. INTELLECTUAL PROPERTY RIGHTS**

Issues related to modernization and technological developments in the Russian economy are discussed at present. High-ranking officials of the Russian government have admitted that a transition to an innovational type of development is required. The strategy of the Long-Term Social and Economic Development of the Russian Federation until 2020 has named the transformation of the intellect and creativity of the people into the main factor of economic growth as the way of achieving such a form of development along with providing for a steady increase in the well-being of the Russian citizens, national security, and strengthening Russia's positions in the international community.

A number of basic measures of implementation are discussed in this strategy, including providing market conditions that can efficiently evaluate the market value of intellectual property (that which is accumulated as well as that which is being developed), and the application of these conditions to increase capitalization of companies.<sup>41</sup>

## **VII. TRADE POLICIES BY SECTOR**

### **VII A. AGRICULTURE**

With the aim of aligning Russia's agricultural sector with its WTO Commitments, the draft law "On Amendments to Article 7 of the Federal Law on the development of agriculture" gives special importance to "disadvantaged agricultural areas", thereby envisaging state support for agricultural production and rural

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<sup>40</sup> 'BAT and Imperial Tobacco Slide on Proposed Russian Tax Boost', <http://www.bloomberg.com/news/2012-10-08/bat-and-imperial-tobacco-slide-on-proposed-russian-tax-boost-1-.html> (last visited 22 Feb. 2013).

<sup>41</sup> 'Intellectual Property: Investment Landscape in Russia', [http://www.themoscowtimes.com/business/business\\_for\\_business/article/intellectual-property-investment-landscape-in-russia/469819.html](http://www.themoscowtimes.com/business/business_for_business/article/intellectual-property-investment-landscape-in-russia/469819.html) (last visited 23 Feb. 2013).

development.<sup>42</sup> The Russian Government also approved to the provision of subsidy to 62 recipients to partially reimburse the expense incurred by farm enterprises when they become the owners of the agricultural land; for example, the problems faced by them due to international competition in case of imports, exports and foreign subsidies.<sup>43</sup>

## **VII B. SERVICES**

The Russian service sector has maintained a strong growth rate till the last quarter of this year.<sup>44</sup> The Purchasing Manager Index for Russia's service sector rose to reach 57.3/100 which reflects its steady increase in growth rate since the 2008 financial crisis.<sup>45</sup>

## **DEFENCE**

The Federal Law FZ № 275 'On the state defence order was signed by Russia on 29 December 2012 which limits the access of foreign producers of arms and military equipment in the Russian state defense orders'.<sup>46</sup> Further, Russia also provided a state guarantee worth 14,84 billion Russian Roubles to three local exporting firms in the defence industry.<sup>47</sup>

## **VIII. DISPUTE SETTLEMENT UPDATE**

### **Russia may contest EU energy laws at the WTO**

Russia is set to table its first trade dispute before the WTO ahead of its March 2013 deadline for compliance with the provisions of EU's Third Energy Package. Russia seeks to show that the requirements under the Third Energy Package, in so far as they result in its' energy products being discriminated vis-à-vis to third country products or EU products in the EU market, violate the MFN and the national treatment principles under Article I and III of the GATT. The specific requirements that Russia seeks to highlight in this respect include the EU's rule of 'unbundling' which requires the separation of production and supply activities from

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<sup>42</sup> 'Russian Federation: State support for disadvantaged agricultural areas', <http://www.globaltradealert.org/measure/russian-federation-state-support-disadvantaged-agricultural-areas> (last visited 24 Feb. 2013).

<sup>43</sup> 'Russian Federation: Partial reimbursement of agricultural land ownership expenses', <http://www.globaltradealert.org/measure/russian-federation-partial-reimbursement-agricultural-land-ownership-expenses> (last visited 24 Feb. 2013).

<sup>44</sup> 'Russian private sector output growth remains strong in November - HSBC', <http://business.highbeam.com/407705/article-1G1-311171373/russian-private-sector-output-growth-remains-strong> (last visited 24 Feb. 2013).

<sup>45</sup> 'Russia back to Golden Age in October, While Europe Struggles', <http://rt.com/business/news/russia-services-pmi-october-056/> (last visited 14 Feb. 2013).

<sup>46</sup> 'Russian Federation: Restrictions on market access for foreign producers of arms and military equipment', <http://www.globaltradealert.org/measure/russian-federation-restrictions-market-access-foreign-producers-arms-and-military-equipment> (last visited 22 Feb. 2013).

<sup>47</sup> 'Russian Federation: State guarantee to local producers in the defence industry', <http://www.globaltradealert.org/measure/russian-federation-state-guarantee-local-producers-defence-industry> (last visited 22 Feb. 2013).

the running of transmission networks which would in turn lead to a loss in control which the Russian company Gazprom could exert over its European pipeline assets. The other problematic rule pertains to the grounds on which the certification to operate in the EU can be denied to the third country companies. The certification can be denied by the EU national regulators if the third country companies do not 'demonstrably and unequivocally' comply with the requirements of unbundling or where, under the 'third country clause', it is considered that such certification would threaten the EU's energy security.<sup>48</sup>

### **European Communities- Measures Prohibiting the Importation and Marketing of Seal Products**

In this case, Canada brought a complaint against the European Communities with respect to their Regulation (EC) No. 1007/2009 which prohibited the import of seal products in the European Communities. In this context, Canada alleged that the regulations contravened the provisions of Article 2.1 and 2.2 of the TBT Agreement; Articles I:1, III:4 and XI:1 of the GATT 1994 and Article 4.2 of the Agriculture Agreement. For the same, Canada requested for the establishment of a Panel on 11 February 2011. On 25 March, 2011 the Dispute Settlement Body established the Panel. In this context, Russia reserved its third party rights along with China, Ecuador, Argentina, Columbia, Iceland, Japan, Mexico, Norway and United States of America. Finally, on 4 October 2012, a single panel was composed by the Director General.

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<sup>48</sup> Fratini Vergano, Trade Perspectives, 'Russia may contest EU energy laws at the WTO' , Issue No. 18 of 5 October 2012.