



**-Russia-**

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# GENERAL FEATURES OF TRADE POLICY

## ECONOMIC DEVELOPMENT AND OUTLOOK

Despite the global slowdown, macroeconomic outcomes remained generally strong in 2003 . Russia recorded a fifth successive year of relatively strong GDP growth and large current account surplus, and a third consecutive year of fiscal surplus. The economy has continued to benefit from the impact of earlier reforms, although temporary factors - in particular, strong world energy prices and the post-crisis real depreciation of the rouble - have also played an important role in growth performance. Moreover, GDP growth has become increasingly dependent on rapid growth of consumption.

The latest estimate of the annual rate of growth for GDP as forecast by the Ministry of Economic Development and Trade is 7.3%, which is just a little above the 7.25% rate of growth needed to achieve the goal proclaimed by President Putin of doubling real GDP over a decade. Inflation declined to come within the government target (at 12%). Reserves increased substantially with a budget surplus of 1.5% of GDP. A large part of the reserve fund (\$3 billion) will be transferred to the new stabilization fund at the start of 2004 with the latter estimated to reach \$7 billion by the autumn.

Against this good overall picture the economy remains undiversified with a large burden of restructuring yet to be completed. Economic performance and budget revenues are heavily dependent on the price of oil. Investment remains relatively low and the banking sector weak. The main question mark over the economy is, however, the future direction of government policy following the Duma elections in November 2003 and after the presidential elections in March 2004. All recent indications have shown that the government is moving away from a free market economy approach in favour of more managed economic policy. The full extent and nature of this change, and whether different policy approaches will respond more to the underlying needs and problems facing Russia, is as yet uncertain.

The real disposable income of the population grew 13.5% in 2003 contributing to the increase in final domestic demand. Investments in fixed capital strongly rebounded in 2003. The annual rate of increase in investment in 2003 is estimated to total 12.2% (2.2% - in 2002). Domestic investments amounted to \$68 billion in 2003 (\$57 billion - in 2002). The ratio of total investments to GDP was 16.7% in 2003. According to government estimates, the labour productivity increased by 7% in 2003, somewhat lagging behind the growth in real wages.

A combination of factors accounted for the Russia's strong economic growth over the last years that could be divided into temporary and long-lasting ones.

The drastic real rouble depreciation in 1998 stimulated a massive import substitution and boosted

competitiveness of the Russian industry. However, the effect of depreciation is coming to an end, as the real rouble exchange rate is only 12 percent below the level it was before the crisis of 1998.

Positive changes in the Russia's terms of trade, associated, mainly, with the high level of oil prices, have also had a strong positive effect on the economy. International prices on metals, in particular, aluminium, copper and nickel, were also strong in 2003 boosting Russia's export revenues.

Government macroeconomic policies have been supportive of the economic growth since the 1998 crisis. The government has maintained a healthy fiscal surplus for the last four years, cutting government spending in real terms.

Government's reform efforts have also positively contributed to the growth in economic activity in Russia. Effects of the structural reforms are subject to uncertain time lags, but such measures as tax reforms, hardening of budget constraints in the economy, reduction in barter trade have certainly improved the business climate and helped to stimulate investment and consumption.

Favourable Russia's terms of trade have led to a rapid build-up in the gold and forex reserves, which shot up from the level of \$12 billion in 1998 to \$72 billion by the end of 2003. The growth in forex reserves could be attributed not only to high oil prices, but also to a remarkable reduction in net private capital outflows.

The government's monetary policy tried to pursue conflicting goals of reducing inflation and limiting the real rouble appreciation. The Central Bank's interventions on the forex market and its purchases of foreign currency have led to an acceleration in money supply growth. For the first ten months of the year money supply M2 increased by 30% creating inflationary pressures. Nevertheless, annual inflation will not probably exceed the level of 12% set by the government as the inflationary target for this year.

Russia's external debt fell in absolute and relative terms. In 2003 the ratio of public debt to GDP dropped below 30 percent. Falling yields on Russia's eurobonds indicate that lower country risks are perceived by private investors.

## EXTERNAL AGGREGATES

### Foreign Direct Investment and investment climate (FDI)

Russia has so far not been able to attract foreign direct investment (FDI) on a scale in tune with her investment needs. Since the August 1998 crisis, which was a severe blow to Russia's emerging role in the international financial system, there has been more caution in economic policy. Boosting FDI has become a key priority of the Russian Government. On its part, the EU has been stressing the need for Russia to provide a stable and reliable legal and institutional framework, which would encourage foreign investor confidence in the Russian market. This is especially relevant to the ongoing Russia-EU energy dialogue. The EU has emphasised that Russia's ratification of the Energy Charter Treaty would be a major step towards creating such a framework for investment in the energy sector.

FDI continued at relatively modest levels (under 1 % of GDP) since 1997, but was on the rise in 2003, mainly, due to the larger volume of borrowing abroad by Russian companies. The amount of long-term loans extended to Russian companies increased twofold in 2003.

Trade and catering accounted for 31.3% of the total foreign investments, while the manufacturing sector accounted for 36.3%. At the level of industries, the leaders in attracting foreign investment were the oil industry, the non-ferrous metal industry and the ferrous metal industry.

As for the break-down of foreign investment inflows by countries, Germany, Cyprus and the UK topped the list of foreign investors in Russia.

Although this can not yet be considered as a breakthrough, there can however be seen already increasingly strong interest and new commitments by reputable foreign strategic investors. What is especially encouraging is that in addition to the traditional targets (i.e. the oil sector, metallurgy, telecom and food sectors), more and more foreign strategic investors are entering new segments of the Russian economy, such as automotive and automotive parts, consumer goods, glass production, forestry, timber, pulp and

paper, retail trade, and machine building and leasing.

It has to be noted, that Statistical data on FDI in 2003 are rather controversial. The State Statistics Committee estimated that FDI totalled \$6.7 billion in 2003 compared to \$4 billion in 2002. However, data on the country's balance of payments released by the Central Bank indicate the negative outflow of FDI in 2003 totalling \$200 million. It seems that the Central Bank of Russia and the State Statistics Committee use different methodologies to estimate the stock and flows of FDI.

### Russia's Foreign Trade

Russia posted a record trade surplus of \$60 in 2003, mainly due to the high international prices on main products of the Russia's exports. Russia's exports totalled \$135.4 billion in 2003, while imports amounted to \$75.4 billion.

### EU-RUSSIAN BILATERAL RELATIONSHIP

- **Bilateral trade between the EU and Russia**

Since its liberalisation process Russia is becoming an increasingly important trading partner for the EU. The EU is by far Russia's main trading partner, accounting for about 25% of Russia's imports and 36% of her export trade, figures that will increase considerably after the EU enlargement. The structure of bilateral trade reflects the comparative advantages of the two economies, with energy representing the bulk of Russian exports - as opposed to capital and finished industrial and consumer goods imported from the EU.

In 2003 the EU(25) overall trade with Russia amounted to over € 103 billion. Russia ranked the EU's fifth largest trade partner, after the USA, China, Switzerland and Japan, representing a share of 5.7 % of the Union's total external trade in terms of value.

Over the same period, Russia was the EU's 5th largest export market after the USA, Switzerland, China and Japan, and was the Union's 4th most important EU supplier. EU exports to Russia accounted for € 36.9 billion, representing 4.19% of total EU exports. Imports from Russia amounted to € 66.6 billion, representing 7.09% of total EU imports, leaving a trade surplus in favour of Russia of about € 29.7 billion.

However, Russia's manufacturing and trade structures are unbalanced. Mineral fuels and related materials accounted for about 60.6% of Russian exports to the EU, chemical products for about 3.9%, agricultural products for 3.3%, machinery for 1.1%, transport material for 0.6% and textiles and clothing for 0.5%.

The most important EU exports to Russia were machinery (32.8% of total EU exports to Russia), chemical products (13.8%), transport material (11.7%), agricultural products (11.2%), textiles and clothing (5.1%).

EU-Russia trade in services remains still rather limited in value terms: around €9.4 billion in 2002 in total (imports 4,716; exports 4,688), 1.5% of total EU trade in services.

A significant proportion of Russian goods entering the Community market benefit from the EU's General System of Preferences (GSP). Furthermore, Russia has applied to benefit from the GSP social preference clause. This application is still being examined.

EU imports from Russia are to a very large extent liberalised. Remaining EU restrictions notably in the steel sector are being addressed under a bilateral agreement. The current agreement, foresees an overall increase of 40% of the mutually agreed quotas until 2004.

### >LI>The EU-Russia Partnership and Cooperation Agreement (PCA)

EU trade relations with the Russian Federation are based on the Partnership and Cooperation Agreement (PCA) , signed in 1994 and entered into force after national ratifications on 1st December 1997.

The agreement regulates the political, economic and cultural relations between the EU and Russia and is the legal basis for bilateral trade. One of its main objectives is the promotion of trade and investment as well as the development of harmonious economic relations between the Parties. Both sides are committed to the

establishment of a free trade area as soon as circumstances permit.

*As regards economic relations, the PCA includes provisions on:*

- **MFN:** The EU extends to Russia MFN (Most Favoured Nation) Treatment. Therefore, Russia receives the same treatment as if it were already a member of the World Trade Organisation (WTO). Equally, Russia extends MFN treatment to the EU.
- There is a special regime for trade in Steel and nuclear materials in the PCA.
- **Freedom of establishment:** The PCA facilitates the establishment of production and services businesses in certain specified sectors in Russia and in the EU. EU and Russian companies are free to establish at least on a national most favoured nation basis, i.e. no worse than the conditions applied to any third country. Once established, EU and Russian companies are free to operate on a national treatment basis, i.e. as if they were national companies.
- **Approximation of legislation:** Russia has committed itself to approximate its legislation with that of the Community. Some of the areas where it intends to align its laws with the EU's are standards and certification, competition law, company law, banking law, company accounts and taxes, financial services, rules of public procurement, customs law.
- There are further provisions on Intellectual Property Rights (IPR) and Trade defence instruments (cf the relevant IPR and Trade Defense sections below).
- **Implementation of the PCA,** is being carried out by means of meetings of the institutions created by the agreement: EU/Russia Summit, Cooperation Council (ministerial level), Cooperation Committee (senior official level), Sub-Committees on technical issues. The EU's Tacis programme of technical assistance is a key to the implementation of the PCA agreement.

- **The EU's Common Strategy on Russia**

As provided by the Amsterdam Treaty, the EU Council adopted in June 1999 a Common Strategy on Russia, with the aim to strengthen the strategic partnership between Russia and the EU, giving it a horizon extending far into the next century. On its side, Russia also adopted a strategy towards the EU proving the mutual interest of both EU and Russia in a special relationship.

The EU's Common Strategy on Russia combines Member States' and European Community policies and actions in the priority areas of: consolidation of democracy, rule of law and public institutions; integration of Russia into a common European economic and social space; Stability and security in Europe and beyond; Common challenges on the European continent (environment, crime).

The PCA, Tacis and Member States' assistance programmes are the main instruments for implementing the Common Strategy.

- **Common European Economic Space**

An important initiative was launched at the EU-Russia Summit of May 2001, i.e. to establish a High Level Group to elaborate the concept of a Common European economic space. This new body, established under the existing EU/Russia Partnership and Co-operation Agreement will provide an opportunity to bring high-level political attention to issues that have in the past got stuck in bureaucratic working groups. It will also provide a sort of umbrella over the growing number of sectoral areas where the EU/Russia dialogue is intensifying across the whole spectrum of their economic relations.

In March 2003, the Commission published the Communication on Wider Europe, which identifies the policy options of the enlarged EU for the future relations with our Eastern and Southern neighbours, including Russia. Without necessarily involving the creation of new institutional arrangements, the Wider Europe initiative aims at establishing at the pan-European level an open and integrated market functioning on the basis of similar or harmonised rules with the EU *acquis* which can bring significant economic and other benefits to these countries. Given that these countries are in the middle of their transition to full market economies and developing their regulatory framework, the Communication puts the emphasis on regulatory approximation and upholds that the first priority for Russia is currently its accession to the WTO.

#### Russia's WTO accession

Russia first applied for accession to the former GATT in 1993. The EU recognises the fundamental role that membership of the WTO can play in anchoring and solidifying Russia's economic reforms. It has therefore explicitly supported Russia's application for WTO membership.

On 24 May 2004, the EU and Russia signed the agreement concluding the bilateral market access



negotiations for the accession of the Russian Federation Federatin to the WTO .

The deal concluded covers the commitments that the Russian Federation will undertake in goods and services once it accedes to the WTO. The average tariff level that Russia will not exceed is 7.6% for industrial goods, 11% for fishery products and 13% for agricultural goods, in addition to tariff rate quotas for fresh and frozen meat and poultry representing around 600 million euro per year (15% of total EU agricultural exports to Russia).

In services, Russia will be taking commitments in a large range of sectors including telecommunication, transport, financial services, postal and courier, construction, distribution, environmental, news agency, and tourism. Commitments include cross border provision of services and commercial establishment.

In addition, the agreement has solved a range of trade related energy questions, in particular on the question of the domestic price for industrial users of gas, and the issue on Siberian overflights.

WTO accession is likely to anchor Russia into an international rules-based trading system. It will enhance openness, transparency and predictability, which are key to attracting foreign investment and provides a foundation for improved economic governance.

As part of the WTO accession process, Russia is negotiating bilateral market access deals with all interested WTO members. The EU being Russia's largest trading partner, the EU-Russia bilateral agreement is a major step in the process of Russia's WTO membership. Russia is currently conducting negotiations with the US, Japan, China, Canada, and Australia among others.

Once these bilateral negotiations have been concluded and the Working Party has completed its work on Russia's trade regime, the Working Party will determine the terms of accession. These will appear in a report with a protocol of accession containing the specific market access commitments (in tariff and services schedules) of the Russian Federation.

**The following table is an overview of the tradeflow between the European Union and Russia**

Section	Year	Import(Euro)	Export(Euro)
<b>Animals &amp; animal products</b>	1996	306,822,580	1,015,075,430
	1997	339,403,750	1,662,329,490
	1998	436,659,460	1,166,782,550
	1999	387,534,000	1,184,497,430
	2000	468,051,430	883,583,250
	2001	532,684,200	1,163,606,400
	2002	456,767,410	1,149,129,520
	2003	353,444,260	992,487,180
<b>Vegetable products</b>	1996	289,760,780	556,137,220
	1997	159,548,000	727,630,990
	1998	170,721,220	591,812,620
	1999	89,376,680	539,397,220
	2000	186,873,150	588,095,170
	2001	205,624,130	741,201,420
	2002	510,245,540	842,626,650
	2003	248,343,180	912,041,200
<b>Animal or vegetable fats</b>	1996	1,537,940	186,616,380
	1997	1,506,500	341,080,180
	1998	1,349,850	224,935,320
	1999	1,529,080	255,985,690
	2000	595,190	156,481,550
	2001	3,698,350	169,595,640
	2002	7,116,490	145,231,690
	2003	11,039,840	78,825,940
	1996	39,290,100	1,882,402,030
	1997	39,327,040	2,162,288,800

<b>Prepared foodstuffs</b>	1998	28,587,400	1,444,258,150
	1999	33,996,470	509,240,710
	2000	46,845,460	730,228,050
	2001	68,372,650	880,707,920
	2002	44,980,900	984,476,120
	2003	67,528,770	1,016,241,510
<b>Mineral products</b>	1996	10,738,374,300	128,501,030
	1997	11,491,967,190	151,458,570
	1998	8,234,925,080	118,018,630
	1999	11,849,585,920	93,910,510
	2000	22,831,431,060	158,461,560
	2001	24,777,318,170	186,734,570
	2002	26,595,203,860	196,292,510
<b>Chemical products</b>	1996	1,051,175,590	1,516,481,570
	1997	1,202,973,420	2,206,459,850
	1998	1,079,587,200	1,832,421,660
	1999	1,193,921,370	1,362,456,790
	2000	1,633,731,230	2,188,825,260
	2001	1,645,381,490	3,141,673,360
	2002	1,517,126,740	3,247,690,550
	2003	1,658,549,500	3,510,176,690
<b>Plastics &amp; rubber</b>	1996	87,856,430	562,285,980
	1997	74,155,890	906,619,420
	1998	100,080,750	801,104,800
	1999	103,726,030	594,059,820
	2000	122,738,040	918,813,620
	2001	132,773,520	1,221,077,660
	2002	116,927,470	1,322,780,560
<b>Hides &amp; skins</b>	1996	220,988,910	160,413,150
	1997	217,040,320	266,297,180
	1998	175,044,830	225,407,840
	1999	114,699,760	139,395,280
	2000	204,330,410	236,470,880
	2001	194,676,630	323,552,620
	2002	178,310,480	332,167,830
<b>Wood &amp; wood products</b>	1996	664,734,970	170,380,850
	1997	796,875,130	240,715,690
	1998	867,158,020	218,869,320
	1999	1,087,198,150	119,178,030
	2000	1,293,036,500	156,533,970
	2001	1,278,801,730	207,970,490
	2002	1,318,422,850	215,844,990
	2003	1,355,756,160	241,903,480
<b>Wood pulp products</b>	1996	249,317,120	748,474,910
	1997	216,720,550	978,551,400
	1998	269,124,950	849,182,120
	1999	293,558,490	610,587,650
	2000	466,722,080	866,564,120
	2001	499,468,020	1,072,465,580
	2002	437,322,500	1,112,396,830
<b>Textiles &amp; textile articles</b>	1996	109,883,570	655,828,310
	1997	119,321,630	906,928,340
	1998	102,315,390	828,709,310
	1999	89,236,440	545,606,020
	2000	147,741,880	922,348,300
	2001	144,349,150	1,273,459,000
	2002	170,874,530	1,408,110,730

	2003	160,310,750	1,466,033,810
<b>Footwear, headgear</b>	1996	1,427,410	547,484,190
	1997	1,296,080	548,688,830
	1998	2,242,950	474,595,910
	1999	3,191,270	195,760,020
	2000	2,071,660	328,538,890
	2001	1,052,180	425,470,420
	2002	2,486,750	449,226,380
	2003	1,970,440	420,153,080
<b>Articles of stone, plaster, cement, asbestos</b>	1996	14,666,410	280,246,920
	1997	13,959,240	403,594,660
	1998	14,063,210	350,263,400
	1999	20,741,810	237,203,590
	2000	25,852,350	341,095,800
	2001	27,300,570	481,203,700
	2002	14,971,360	511,727,360
	2003	13,789,330	581,321,590
<b>Pearls, (semi-)precious stones, metals</b>	1996	795,767,750	82,109,600
	1997	1,090,796,430	99,503,020
	1998	1,303,729,890	38,888,650
	1999	1,181,543,300	38,097,940
	2000	1,583,330,320	76,508,780
	2001	1,830,027,870	60,376,400
	2002	1,640,881,720	81,506,950
	2003	1,767,983,950	135,976,590
<b>Base metals &amp; articles thereof</b>	1996	3,516,187,520	892,217,610
	1997	4,813,801,390	1,118,601,520
	1998	4,564,971,340	979,972,270
	1999	3,956,016,130	833,619,960
	2000	6,126,236,930	960,706,470
	2001	4,889,392,680	1,278,048,090
	2002	4,280,395,280	1,419,539,020
	2003	5,005,630,400	1,409,344,040
<b>Machinery &amp; mechanical appliances</b>	1996	200,014,830	4,867,070,780
	1997	192,357,650	6,489,495,750
	1998	207,612,050	5,682,959,040
	1999	261,031,580	3,985,170,940
	2000	298,553,980	5,893,905,210
	2001	225,495,350	8,695,170,860
	2002	223,394,680	10,024,325,850
	2003	260,664,110	11,178,973,230
<b>Transportation equipment</b>	1996	224,930,560	902,895,170
	1997	149,509,120	1,549,353,960
	1998	58,957,940	1,301,468,010
	1999	61,286,610	764,304,920
	2000	163,966,150	1,061,452,220
	2001	106,269,170	2,075,309,480
	2002	129,091,100	2,515,791,350
	2003	94,062,660	2,967,995,420
<b>Instruments - measuring, musical</b>	1996	28,063,290	677,653,520
	1997	31,449,100	765,344,830
	1998	29,218,790	800,672,770
	1999	24,150,710	475,407,960
	2000	27,611,550	652,993,720
	2001	40,987,730	1,045,187,800
	2002	45,326,880	1,023,398,180
	2003	40,506,150	1,124,591,630
<b>Arms &amp; ammunition</b>	1996	5,047,690	6,374,700
	1997	129,467,890	8,875,360
	1998	21,117,670	8,347,670
	1999	7,843,180	3,778,650

	2000	10,360,580	7,225,700
	2001	5,332,670	11,851,740
	2002	109,175,350	15,617,620
	2003	18,114,060	17,354,060
Miscellaneous	1996	36,795,600	871,072,310
	1997	34,739,070	1,129,261,040
	1998	32,599,630	930,704,340
	1999	40,335,060	580,588,760
	2000	62,228,560	785,360,660
	2001	67,820,290	1,013,020,010
	2002	61,977,310	1,058,365,990
	2003	74,818,690	1,077,375,800
Works of art	1996	6,683,060	3,922,530
	1997	21,459,620	17,653,640
	1998	5,608,140	11,243,530
	1999	5,032,420	20,363,630
	2000	14,692,710	26,434,420
	2001	86,953,600	63,905,970
	2002	3,044,220	33,535,610
	2003	6,399,680	21,235,120
Other	1996	471,627,710	158,234,100
	1997	57,818,310	126,427,280
	1998	55,047,720	84,173,490
	1999	68,872,070	55,247,860
	2000	42,618,880	49,068,240
	2001	38,227,200	77,794,460
	2002	88,882,350	85,230,940
	2003	79,602,890	90,525,360

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## TARIFFS AND DUTIES

### • Import Tariffs

Import Tariffs are Russia's main trade policy instrument regulated by the Russian Federal Law "On the Customs Tariff".

As from 1 January 1997 the Russian Customs Tariff is based on a commodity description and classification system based on HS 96, replacing as from the HS 92 previously used. A new commodity description and classification system is supposed to enter into force from 1 January 2002 based on HS 2002.

The current system consists of 11,032 tariff lines. The significant majority of tariff items are subject to ad valorem tariffs, but 1,515 tariff items are subject to compound (mixed) rates (ad valorem and specific duties) and 76 tariff items are subject to specific rates (apples, chocolate, beer and strong alcoholic beverages).

In November 2000, the government adopted a new four-tier system of customs duties which came into force on 1 January 2001. The tariff cuts sliced maximum rates from 30 to 20 %, but tariffs average at about 10 % (11% before the tariff reduction). The new four-tier run scale includes levels of 5, 10, 15 and 20 %. The major exception to the new system is automobile imports, which are subject to a special 25 % tariff, to protect the domestic car industry. However, this rate is lower than the previous 30 %. Other exceptions are poultry, sugar, spirit and tobacco.

According to the Ministry of Finance of the Russian Federation, the weighted average tariff has remained at about 12 %

For current applied tariff levels, please consult the "Applied Tariff" Part of the present Data-Base.

As Russia is not yet a Member of the WTO, it has not bound its tariff rates. Russia is currently negotiating the terms of its WTO accession (see the sectoral part above). Russia's new import duty scale forms the cornerstone of the government's reform of the customs system, which aims to remove obstacles to Russia's WTO accession.



## Excise and VAT

Russia has already taken steps to equalise the treatment of imported and domestically produced goods for the purposes of internal taxation. These are being assessed by the EC.

## Other Tariffs and Duties

### ● 020031-Consular fees [2004-10-18]

Russia levies consular fees connected with imports or exports of goods or services which do not apply to all foreign companies on a non-discriminatory basis and do not appear to reflect always the actual cost of services rendered. Current differences in the level of charges applied by Russian consular offices in third countries do not appear justified. In many cases, including in relation to the certification and authentication of documents, the consular fees levied in the CIS and Baltic countries are ten times lower than those levied elsewhere.

The issue is being dealt with in Russia's WTO accession negotiations.

- During the negotiations on Russia's accession to the WTO, Russia stated it would ensure that any fees and charges for services rendered or introduced in the future would only be applied in conformity with the relevant obligations of GATT 1994, and that any application of fees and charges by the Russian Federation for services rendered or in connection with importation or exportation would be in accordance with the relevant provisions of the WTO Agreement from the date of accession. Russia further stated that, after accession, information regarding the application and the level of any such fees, revenues collected and their use, would be provided to WTO Members upon request.  
Th issue appears to be solved.

## Agriculture and Fisheries **Tariff Levels**

### ● 020022-Wine tariffs [2002-03-25]

The specific duties on alcoholic beverages (wines, Vermouths and other fermented beverages; CN codes 2204, 2205 and 2206) have been replaced by 25 % ad valorem tariffs as from 1 April 2000, following decision n° 1365 of December 1999, of the Government of the Russian Federation, of 9.12.1999. They have since been reduced to 20% ad valorem tariffs, as from 1 January 2001. The Russian side explained that this governmental decision was a response to the World Bank and the International Monetary Fund requirements to replace a number of tariff lines, for which duties were applied, with ad valorem duties. In reaction to EU concerns, the Russian replaced the 25 % rate by 20 %.

However the EU wine industry still complains that, when compared to 1999 duty levels, this change in tariffs results in a global increase in duty for EU wines, in particular for higher value wines. The average ad valorem equivalent for EU exports, which would correspond to previous specific duties, is close to 10 %. Generally speaking, specific duties are more favourable to trade in quality wines, whereas ad valorem duties favour import of cheap wines. Besides, the introduction of ad valorem duties increases the incentive for fraud and under-declaration of the custom value. Thus these elements are particularly unfavourable for EU wine exports, when compared to other competitors (CIS, New World).

During consultations with Commission representatives the Russian side agreed formally to decrease the ad valorem rate to 10 % or to adopt a combined tariff formula, by adding a ceiling to the current ad valorem rate, which would reinstall EU traders in previous conditions.

However, the Russian side did not live up to these commitments and did not submit an adaptation of wine tariffs during the second quarter of 2001.

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## NON TARIFF BARRIERS

There are numbers of non tariff market access problems ranging from cumbersome customs procedures, discriminatory import licences to effective technical barriers to trade.

## Registration, Documentation, Customs Procedures

### ● 020033-*Restrictive customs clearance on certain border crossings* [2002-03-05]

Russia has also imposed restrictions that require customs clearance for certain goods, including textiles and clothing and electrical products, to take place only on border crossings with certain named Asian countries as well as in ports and airports. Consequently such items originating in Asia can no longer be exported to Russia via the EC. These decrees make it impossible for EU companies exporting to Russia to use raw materials from the Far East for sub-contracting and subsequently creates a barrier to EU-Russian business co-operation.

The cumulative effect is that EC exporters to Russia face unpredictable, non-transparent, lengthy and generally burdensome customs procedures for imported goods at the point of entry into Russian customs territory. The EC accepts that appropriate checks on imported goods may be called for to ensure that Russian regulatory requirements are respected, but such measures should not be applied in a heavy-handed or non-transparent way.

### ● 020032-*Inconsistencies/non-transparency of administrative decisions* [2004-02-03]

EC industry and exporters have regularly complained of inconsistencies between administrative decisions taken by Russian authorities and the prevailing Russian legislation. Moreover, inconsistencies exist between the general legislative framework and subsidiary regulations and administrative guidance issued by Russian government bodies (such as the State Customs Committee). Furthermore, administrative orders issued by the State Customs Committee are sometimes issued as "secret orders" and their contents are not publicised to traders.

Under State Customs Committee Order No. 949 of 1 October 2001, certain goods qualified as high-risk (eg certain foodstuffs) are not released for free circulation without the specific approval of a "higher customs authority". The process of obtaining such approvals can last up to 1-2 weeks. Under rules introduced in October 2001 by the North Western Customs Authority, shipments of "risk products" (a wide group of products including coffee, furniture, tyres and washing machines) are subject to burdensome documentary requirements, including in relation to the ownership of the vehicle transporting the goods.

The issues are dealt with both in the bilateral context and in the framework of Russia's WTO accession negotiations.

### ● 040132-*Pre-shipment Inspection* [2004-10-18]

On 10 September 2004 the Russian government issued a draft Regulation on Pre-shipment Inspection (**PSI**) under Federal Law of 8 December 2003 No 164-FZ "On the Basic Principles of State Regulation of Foreign Trade Activities". According to the document, all goods included in a so-called "product risk group" imported into the Russian Federation will not only have to go through customs inspection at the border, but also through an inspection when they are being loaded on the exporters territory. The 'product risk group' includes products that will affect a very large percentage of EU exports to Russia. It includes products where the EU and Russia previously agreed to move away from PSI to other more proportionate forms of consumer protection: e.g. clothing. The proposals limit PSI to 3 years with possible renewal.

***For an unofficial translation of the product coverage [click here](#) .***

#### **Details of the draft governmental decree :**

It is divided into five chapters devoted respectively to:

1. General provisions;
2. Procedures for conducting PSI;
3. Payment of PSI activities;
4. Resolution of disputes;
5. Rights, obligations and powers of the persons involved in PSI.

According to a preliminary analysis by the Commission's Services of the Russian draft decree it appears that the main features of the system are the following:

- The regulation, as currently drafted, applies to imports from all sources. The regulation, however, is said to have as one aim, the curbing of under-invoicing in customs transactions, rather than directed at consumer safety on the basis of genuine risk.
- Inspection before delivery will check quality, quantity, price and coding of goods designated for imports into

the Russian Federation.

- The PSI system in principle will run for a maximum of three years. However, the government can extend the life of PSI at the request of MEDT or other relevant ministries.
- Importation of goods subject to PSI can only be done after a certificate of inspection has been issued. The form of the certificate is to be approved by the Ministry of Economic Development and Trade.
- Shipments valued less than 70,000 roubles (+/- €2000) are not subject to PSI.
- PSI is done on the territory of exporting country. The cost of inspection before delivery is to be set by the Ministry of Economic Development and Trade on the basis of a tender. It cannot exceed 1% of the customs value of the shipment with, in any event a minimum fee of 12,000 roubles (+/- €340).
- The draft decree makes no mention that the fee for PSI will be deducted from the value of the import duty to be paid. There is no legal base for importers to seek to reduce the duty payable by a corresponding amount. All indications are that the fee for PSI will be additional to all other duties and fees currently payable.
- Claims against the result of an inspection must be filed first with the PSI company, which has 2 days to examine the claim. An appeal can be lodged with a special Commission as yet still to be created in MEDT.
- The list of goods subject to the inspection is very extensive being in most cases identified simply at the level of 2 digits in the Russian nomenclature (equivalent to the HS code). 37 categories are identified in this way. These represent a very significant percentage of total EU exports to Russia.

The Commission services are currently pursuing their analysis of the decree and its possible effects on EU exports to Russia.

## Standards and Other Technical Requirements

### ● 970361-Standards and Certification [2004-10-04]

Most industrial sectors are affected by problems in the field of standards and certification as these problems are of a horizontal nature. The problems originate in the systems left over from the Soviet Union, and relate mostly to the erratic and contradictory Russian legal process, insufficient alignment with international standards, and an excessive use of pre-market third party certification, resulting in high costs and considerable delays for European exporters. In addition, standards are often compulsory and very detailed, unlike in the EU, and mandatory third party certification applies for whole ranges of products for which self-certification by the manufacturer is accepted in the EU. The application of standards and certification requirements lacks transparency, and is often arbitrary. Changes to the certification requirements are made frequently and not always sufficiently publicized. This combination of excessive testing, over-prescriptive requirements, high fees, considerable delays, untransparent application, and frequent changes constitutes one of the most serious barriers to market access for EU exporters to Russia.

Discussions between the Commission and the Russian authorities have been going on for several years on these matters, both in the framework of the Partnership and Co-operation Agreement (PCA) and in the context of the negotiations on Russia's WTO accession, and they have been backed up by significant technical assistance under the EU's TACIS programme.

#### **Progress to-date and main remaining problems :**

Russia has undertaken to reduce the differences between the EU's system of standardisation and conformity assessment and its own by "encouraging the use of internationally agreed instruments in this field" (art. 60 PCA) and has also committed itself to "ensure that its legislation will be gradually made compatible with that of the Community", notably in the field of "technical rules and standards" (art. 55 PCA). These efforts are also necessary to make the Russian system compatible with the WTO Agreement on Technical Barriers to Trade (TBT agreement) at the moment of Russia's accession to the WTO, and aligned with international practice.

With this objective, Russia adopted in December 2002 the Federal Law No. 184-FZ "On the fundamentals of technical regulation" (of the responsibility of MEDT and Gosstandart), that entered into force on 1 July 2003.

The new law is understood as an improvement. It includes positive elements which should make the system generally compatible with the TBT Agreement's main principles: separation between voluntary standards and mandatory technical regulations, inclusion of elements of openness and transparency in the drafting of standards and Technical Regulations, de-concentration of tasks between different organisations (there is currently concentration of all functions in Gosstandart - standardisation, metrology, conformity assessment, market surveillance, appeal).

However:

- The points on conformity assessment are still very unclear. The law states that a modular approach to conformity assessment will be introduced, but the procedures of conformity declaration seem to continue to be based on generalised pre-market certification. The marking system appears also to be unclear.

- The new law requires a 7-year transition period, where the mandatory and the voluntary systems will co-exist, making TBT compliance problematic, and leaving to officials (customs, certification) a high level of discretionary power. A lot will also depend on the new legislation being prepared, namely on conformity assessment procedures.

The Commission will monitor closely the new law on conformity assessment that the Russian authorities state that will be drafted, based on the framework of the Law on Technical Regulation (the interdepartmental programme of measures for the full compliance with WTO rules includes a draft Technical Regulation "On Modular Approach to Conformity Assessment Procedures" to be based on EU Council regulation of 22.06.93).

In general, the complexity (being a framework law) and unclarity (aggravated by the translation provided) of the new law, leads to some doubts on its purposes. The European Commission will discuss this with the Russians in detail, in all occasions possible.

- Moreover, all signals arriving from different industrial sectors active in Russia point out that the authorities continue to enlarge the scope of mandatory certification of products with very low risk, which, in the EU, are subject to less stringent requirements, or are even not subject to any form of compulsory conformity assessment. This is contrary to the TBT agreement's principles of least trade-restrictiveness and proportionality and to international practice, as well as unnecessarily rigid and costly for manufacturers.
- . The authorities (Gosstandart, Ministry of Health) also continue to legislate without consulting the industry and economic operators and without giving sufficient time for adaptation, as required by TBT Agreement. Equal treatment is also not assured.
- The situation is still non-transparent and unpredictable : e.g. new procedures of certification of medicines were introduced in the end of 2002 without prior consultation or period for adaptation. (More recently, the Russian authorities informed associations of EU companies in Russia that around 100 technical regulations (out of 500 planned) are about to be completed . The economic operators were not consulted or informed of the contents of these technical regulations).
- There are also continuing complaints that there is no equal treatment between local and foreign economic operators regarding fees (companies claim that there is a 33% difference), as well as differentiated fees across the Russian territory and that fees are not proportional to the work done (some sectors complain that costs of certification can be 40 % or more of cost of the product).

## Agriculture and Fisheries

### Quantitative Restrictions and Related Measures

#### ● 020020- Temporary ban on imports of ethyl alcohol [2004-02-03]

Article 13 of the Russian Federal law "On State Regulation of Production and Turnover of Ethyl Alcohol, Alcoholic and Alcohol-Containing Products" of 22 November 1995 (173-FZ - as further amended) restricted imports of distilled spirits to no more than 10 % of alcohol sales in Russia. Within this quota, not less than 60 % of imports must contain 15 % of alcohol or less. The provisions of that Article have never been implemented.

The prohibition on the importation of ethyl alcohol has however been enforced by the Federal Law 61-FZ "On Temporary Ban on Ethyl Alcohol Imports" of 31 March 1999. The temporary ban was due to expire on 31 December 2001. This measure was said to be necessary for the enforcement of governmental measures to restrict the quantities of like domestic product for marketing .

Russian authorities have orally confirmed that the measure has been lifted on 31 December 2001 and that Art. 13 of Federal Law N° 173-FZ had never been implemented.

### Sanitary and phytosanitary measures

#### ● 970214- Russia- Food standards [2004-09-10]

Russia's standards and certification procedures for confectionery products raised trade obstacles, according to exporting companies. Standards are obligatory and those for permitted ingredients deviate significantly from international standards, eg FAO/WHO JECFA (Joint Expert Committee on Food Additive) recommendations; no clear list of permitted and prohibited additives exists; unnecessary requirements imposed such as microbiological testing for chewing gum; re-inspection and re-certification required for EC products already carrying an EC certificate (on first import) of health, quality, purity and origin; transparency lacking difficulties in getting information on applicable rules; certificates issued in one area of the country not necessarily accepted elsewhere. Since 1 July 1997, the products exported by the EU must have

a conformity marking (Gosstandart- Russian norm) in addition to the product certificate only valid for one year. The procedure for receiving a product certificate and a conformity marking is as follows: Introduction of the demand et conformity declaration by product. Signature of an agreement between both parties in relation to the product certification. audit made by a control society (SGS) on the manufacturing process. Analysis of final product made by an approved laboratory. High costs only for certification : 1.750 NI Guldens. In addition to this certification an sanitary testing has to be done by the Goskomsanepidnazor Institut.

● **980089- Russia- Poultry meat [2004-09-10]**

EU exporters have reported that there are new regulations in Russia forbidding imports of poultry meat if the animals have been treated with anti-biotics. It is unclear whether this is a blanket ban, or whether there are time dosage limits for such anti-biotic treatment.

● **040018- Russia- Living chickens, meat, eggs, fodder [2004-09-27]**

Import ban in Russia from 17/03/03, Ban lifted 01/04/03

Ban restored 21/04/03. Ban lifted 29/10/03, except for Antwerp and Limburg provinces.

- According to OIE rules (Article 2.1.14.2.), a country may be considered free from HPAI when it has been shown that HPAI has not been present for at least 6 months after the slaughter of the last affected animal for countries in which a stamping-out policy is practised with or without vaccination against HPAI (which is the case in the EU).

Russia does not have scientific bases to apply such a ban to the Belgian products.

● **040080- Russia- Live ruminants, dairy product and pet food [2004-10-01]**

Import ban on live ovines and caprines and import restrictions for live bovine, dairy products and pet food due to BSE.

Ban on the products from France, Ireland,...

- General statement on BSE to all Third Countries on 17/03/2004 in reaction on the statement of the USA

● **040119- Russia- Import ban on cut flowers due to plant health reasons [2004-10-01]**

Russia banned the import of cut flowers from EU (either produced or in transit) due to the presence at the Russian border of some consignments apparently infected with a pest ( Thrips ) on 28 June 2004. The affected consignment may be re-exported to Russia via a Member State and originated from a Third Country. Problems on certification were raised by the Russian authorities. Estonia has been also financially affected by this measure.

Thrips can attack many plants (including a wide range of ornamental garden plants) and vegetables. Some thrips (T. Tabacci or Franchiniella Ocidenralis) can, in addition act as a vector carrying some virus which may provoke plant diseases.

On the basis of trips again, Russian authorities blocked all imports from Estonia of goods subject to Phytosanitary control on 13 August.

In the mean time Russia has made it clear that it expect to have their concerns adressed in a way similar to the veterinary issues.

- NL and EST negotiate bilaterally until now. 9 September Council decided to negotiate with Russia with a representation of all MS.

● **040066- Russia - Dairy products [2004-09-27]**

Import restrictions on dairy products due to import requeriments : Dioxins Certificate, Radioactivity Certificate

## Automotive

## Standards and Other Technical Requirements

● **020029- Certification : type approval for tyres [2003-09-10]**

1. European exporters are requested to provide the Russian customs offices with a copy of the UN-ECE type-approval certificate (when the marking according to the UN-ECE Regulations should suffice).
2. The European Commission is further aware that there are wide variations between the procedures applied at different local customs offices in Russia. Some offices request a copy of the ECE-type approval or the EU-type approval certificate. For passenger cars, commercial and motor cycle tyres, type approval certificates are requested for each brand, each size and for each tyre type. After three years all documents need to be renewed. These requirements have the effect of being burdensome and complicated and documents are requested apparently at the whim of the local customs officer. In some cases, such as in the case of importers in the Moscow region, all customs clearance



takes place through a single point of entry near to Moscow. This compounds the problem as long queues form and customs officers appear to apply their discretion to the fullest degree.

3. In addition, a new Customs Decree (N° 1062) of 1 October 2002 stipulates that :
    - manufacturers should provide federal customs with a list of official distributors into Russia;
    - manufacturers should fix invoice prices for all tyres and inform federal customs consequently ;
    - distributors should provide federal customs with all invoices with value confirmed by manufacturers.Having to provide the customs authorities with such information causes an extra barrier to trade.
- These issues, which compound the problem associated with the already high tariffs that are in place on tyres, are currently dealt with in all bilateral meetings between the European Commission and the Russian authorities both in the relevant Committees under the bilateral Agreement on Partnership and Cooperation (APC) and the ongoing negotiations in the framework of Russia's accession to the WTO. One of the possibilities evaluated, in order to remedy this situation, is to put in place a single unified procedure across Russia. Russia is a Contracting Signatory to the 1958 Geneva Agreement underpinning which is a 'spirit of mutual recognition'. Since EU tyres already conform to these standards there should be no need for a conformity certificate. (cf. also barrier N° 970361 on the horizontal standards and certification aspects).
  - As to the implementation of Decree 1062 of October 2002 an intermediate arrangement has been reached in the meantime between local tyre companies and the Russian authorities. Concerning the non-tariff aspects, the Russian authorities clarified that Decree N° 1062 would apply as follows :
    - For registration to the customs authorities, tyre companies do no longer need to provide dealer contract.
    - After registration, tyre companies are able to clear goods at any terminal in Russia. The implementation of the above measures is subject to a careful monitoring both by the European industry and the European Commission. An assessment will be made in the coming months to evaluate the trade situation with a view of further action.

#### ● 020035-Certification : Type approval for cars [2004-02-03]

Russia applies a system whereby type-approval is only granted for a limited period, as opposed to the vehicle's whole production cycle (as requested under the UN-ECE system). Other problems relate to the need for separate specification requirements with regard to health and environment considerations (refrigerant air, exhaust fumes and noise levels). These additional testing requirements are unnecessary as these issues are already covered in the UN ECE system. The Russian requirements appear to represent a breach of the WTO TBT (Agreement on Technical Barriers to Trade) principle of proportionality and are not scientifically justified. At the very least, the need for such requirements, which deviate from international rules, in particular as enshrined in the UN/ECE regulations, should be scientifically justified.

Russia requested also separate certification procedures for spare parts but authorities have lately informed that such requirements have been abolished.

The certification issue for cars is currently dealt with in all bilateral meetings between the European Commission and the Russian authorities both in the relevant Committees under the bilateral Agreement on Partnership and Cooperation (APC) and the ongoing negotiations in the framework of Russia's accession to the WTO.

**(cf. also barrier N° 970361 on the horizontal standards and certification aspects).**

The issue is currently dealt with in the framework of Russia's WTO accession negotiations.

## Chemicals

### Standards and Other Technical Requirements

#### ● 020036-:Certification requirements for Cosmetics and Detergents [2004-10-04]

The European Commission is aware of some general regulatory problems in Russia, with emphasis on the specific case of the cosmetics and detergents industries. Current registration and certifications procedures generally impose duplicated testing requirements and lengthy periods for approval, while not assuring effective in-market

surveillance, products quality and consumer protection.

EU industry further called the attention of the Commission to the recent approval of two Government decrees which implementation will duplicate existing requirements, lead to additional labelling, and may lead to different treatment of companies in the Russian territory, due to lack of clarity:

1. Government Decree 988 of Dec. 2000 (to be implemented on 1 January 2002) On the State registration of new foodstuffs, materials and articles;

2. Government Decree 262 of April 2001 (to be implemented on 1 January 2002) On State registration of some types of products presenting potential danger for human health, as well as certain types of products imported into the territory of the RF for the 1st time.

The Industry claims inter alia that, despite regular calls for co-operation, it is not consulted and does not have access to information about new legislative plans of Ministry of Health (MoH). This approach lead to legislation with new and unexpected barriers for the Industry. The Commission is informed that GOSSTANDART regularly publishes plans on upcoming legislative initiatives, which is positive. However, further consultation of the Industry is needed. For example, the last initiative on declassification of certain products from mandatory certification to a category where conformity of products can be confirmed via a declaration of the manufacturer, was done without participation of representatives from the Industry. As a result, considering the information from industry, most of cosmetic groups remained under mandatory certification, and no simplification in terms of pre-market approval procedures is expected.

Further coordination between the Ministry of Health and GOSTSTANDART in the legislative process would also be necessary. The Commission has called the Russian authorities' attention to the fact that implementation of additional registration procedures requesting double check of safety for certain product categories is a main obstacle to business in Russia.

For example, in the cosmetics sector the new Decrees will create more complexity to existing procedures when, instead of 1 permit procedure for cosmetic products, there will be 3 different procedures. Indeed, after implementation of the Gov. Decree 988, as of Jan.01/02:

- cosmetic products covered by Decree 988 will need hygienic certificate **plus** state registration **plus** declaration of conformity of manufacturer,
- for cosmetic products that are not covered by Decree 988, products will need either hygienic certificate **plus** certificate of conformity, or hygienic certificate **plus** declaration of conformity from the manufacturer.

- Sectoral certification issues are dealt with along with the general certification problems in Russia both under the PCA and the current WTO Accession negotiations.

## Other Industries **Other Non-Tariff Measures**

### 🟡 020019-Lower domestic energy prices, notably gas [2004-10-08]

In addition to very high export taxes on oil and gas products (varying in relation to the world market price and revenue objectives set by the Government), Russia practices dual prices in the energy sector which make energy artificially cheap for the domestic processing industry, and discriminate heavily against foreign buyers. These practices are highly discriminating and are not applied by other trading partners.

The Commission and the European industry consider that the effect of dual pricing in energy is to contribute to an indirect subsidisation of Russian industrial producers and services suppliers, as they do not have to pay a full market price for their energy inputs. This is particularly the case in energy intensive sectors (i.e. fertiliser, non-ferrous metals, steel, and others), where energy can account for a significant share of the price of the final product. This leads to a potential situation of dumping of downstream products once they are exported. The whole situation has implications for the ability of imported goods to compete on the Russian market and can lead to a displacement of EC products from third country markets.

Exported goods from Russia also benefitted from subsidised transport charges, particularly for transportation by rail. The EC understands however that Russia has taken steps to ensure that import/export cargoes are transported to/from Russian ports through the territory of Russia according to the domestic tariffs and that it intends to extend the same principle to all import/export cargoes to/from all frontier points in the near future.

#### • Gas

In the energy sector, the main role in providing subsidy to the Russian society and economy is played by Gazprom, the state monopoly supplier and the largest single producer of gas in the

world. Gazprom sells two-thirds of its production domestically at prices considerably below international levels.

In 2001 Gazprom exported 125 billion cubic meters (bcm) at an average export price of \$116 per 1,000 cubic meters at Russia's Western borders. These sales generated around 70% of the total turnover of the company from around 30% of its production. Thus domestic sales of 60% of production accounted for 30% of revenue generated from the same product. According to expert estimates the average domestic price of gas in 2001 amounted to \$ 13/14 per 1000 cubic meters (about 1/5 of the export prices), with wide variations in different regions and with respect to different categories of buyers.

To assess the extent of the eventual subsidy, a research done in 2001 used the domestically sold volume multiplied by the difference between the current and the fair price (international price minus the cost of transport from Russia and foreign taxes). According to this calculation, the total subsidy transferred by Gazprom to the Russian economy in 2000 totalled \$6,3 billion, or 3% of GDP of which \$3.1 went to the electricity supplier (see below), \$1.5 to industry, \$0.3 billion to agriculture and \$1.4 billion to the housing sector directly.

- **On 24 May 2004, the EU and Russia signed the agreement concluding the bilateral market access negotiations for the accession of Russia to the WTO, which includes i.a. a commitment that the price of gas for industrial users will cover costs, profits and investment needed for exploitation of new fields. Russian gas prices to industrial users would be gradually increased from the current \$ 27-28 to between \$37-42 by 2006 and \$49-57 by 2010, which is in line with Russia's own energy strategy. Increasing domestic energy prices will encourage a more efficient use of energy resources in Russia and it is thus mutually supportive of the Kyoto goals.**

## **Pharmaceuticals Registration, Documentation, Customs Procedures**

### ● *020027-Activity licensing: Pharmaceuticals [2004-10-08]*

Activity licenses for imports of pharmaceutical products were only available to specified Russian companies or (in the case of medicines) Russian companies which have the license to produce the same goods. The issue has been solved.

- The Commission is currently dealing with this issue under the negotiations on Russia's WTO accession.

## **Standards and Other Technical Requirements**

### ● *030051-Certification requirements for pharmaceuticals [2003-09-15]*

The European Commission became recently aware of new procedures of certification for pharmaceuticals, introduced without prior consultation or period for adaptation and raising doubts about equal treatment of economic operators.

The main complaints received by the Commission services relate notably to discriminating testing procedures for registration of medicines, no equal treatment in the field of pharmaceuticals of foreign economic operators regarding fees, as well as differentiated fees depending on the officials and place, lack of transparency regarding the laws, regulations and other measures that applied to matters related to the registration, importation, and regulation of pharmaceutical products.

These issues are currently dealt with by the European Commission in the relevant fora both under the Partnership and Co-operation Agreement between the European Union and Russia and under the current negotiations on Russia's WTO Accession.

*(Cf. also barrier N° 970361 on the horizontal standards and certification aspects).*

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# **RESTRICTIVE EXPORT MEASURES**

The Commission is extremely concerned about the proliferation of export restrictions imposed by Russia on a large number of products which gravely distort EU trade and competition. Export restrictions from Russia are recurrent, are linked to frequently changing legislation and may vary in nature, ranging from export prohibitions, discriminating export licences to export duties. The latter vary in relation to the world market price and revenue objectives set by the government. Because these duties are applied on raw

materials, their level is often prohibitive and can stop trade completely.

## Export Taxes

### ● 020017-Export duties [2004-10-08]

Russia has maintained export duties on a wide number of products. Under Order N° 710 of 23 July 2001 of the State Customs Committee of the Russian Federation, Russia has again increased such duties and extended their scope, covering 154 headings of the Harmonised System, at rates up to 50% (on products where the duty is expressed in ad valorem terms) and 500€ per tonne (on products where the duty is levied on a specific basis). The level of these export duties is extremely high for certain products, i.e. ferrous scrap: an ad valorem 15% duty (but not less than 15€ per tonne); non ferrous metal scrap: an ad valorem 30% to 50% duty (but not less than 105€ to 1200€ per tonne); energy products: ranging from 30.5€ to 40 € per tonne; hides and skins: ranging from 60€ to 500 € per tonne; wood products: an ad valorem 5% to 10% duty (but not less than duty ranging from 2.5€ to 24€ per m3); etc.).

The effect of these duties is to subsidise the domestic downstream processing industry and to discriminate against foreign buyers. For many of the products affected, the effect of the duties is to discriminate against foreign buyers and to raise the level of the export price so that third-country producers (i) encounter their own difficulties of supply for the products concerned, (ii) suffer from increased production costs resulting eg from higher input or energy costs and/or (iii) face a situation where they lose relative competitiveness on the global market for downstream products as a result of the indirect price support given to domestic Russian producers competing in the same markets. This is particularly the case as a result of export duties on minerals, petrochemicals, natural gas, raw hides and skins, metals including non-ferrous metals and scrap, wood products and log, etc. (see also the more detailed sectoral barrier descriptions on the most affected industries)

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- **Consultations on this issue had been engaged between the European Commission and Russia both in the framework of the relevant fora under the PCA and of the ongoing negotiations on Russia's WTO accession.**

**After lengthy negotiations, an agreement was finally reached in the context of EU-Russia bilateral WTO negotiations on 21 May 2004 to either significantly reduce or completely phase out export duties over a transitional period, including for products of key interest to the EU such as metal scraps, hides and skins, wood products.**

**The Commission will monitor the implementation of the bilateral settlement .**

**Iron, Steel and  
Non-Ferrous  
Metals**

## Export Taxes

### ● 020021-Export duties on ferrous and non ferrous scrap [2004-10-07]

#### **Ferrous scrap**

Since April 1999, Russia has introduced a tax of 15% on ferrous scrap exports (but not less than 15€ per tonne), despite a declaration to the contrary included in the bilateral steel Agreement. As a counter-measure, quantitative limits mentioned in the Agreement have been reduced by 12% by the EC in years 2000 and 2001.

The EC and Russian side are currently negotiating a possible renewal of the bilateral steel agreement. The EC negotiators are seeking for a solution for this scrap export tax in the context of these negotiations. The levels of the future quantitative limits are clearly linked to the settlement of this scrap tax dispute.

#### **Export duties on non-ferrous scrap**

In January 1999, Russia imposed a 10% export tax on non-ferrous metal scrap. During 1999, the level of the tax was subsequently raised to 20%, 30% and, in 2000, to 50%. The level of such a tax constitutes de facto a ban of exports for these products from Russia.

Russia justifies her measures by the need to raise fiscal revenues.

Particular concern also relates to the export tax on copper scrap. Russian exports of copper scrap to the EC grew steadily during the '90s, reaching almost 300 000 tonnes in 1998. Russia has thus become the single largest source of copper scrap imports to the EC. Following the introduction and the various increases in the tax, EC imports of Russian copper scrap rapidly dried up. In 2000, these imports were below 50 000 tonnes (i.e. 1/6 of 1998 level). Indeed, the present level of the tax corresponds de facto to an export ban, since the total value of Russian copper scrap is now higher than the value of refined copper. The EC refining industry is therefore severely injured by these measures, because of the lack of alternative sourcing options.

The decrease of scrap exports is mirrored by a corresponding increase in refined metal exports, which are not taxed. One notable negative effect of these duties is to channel inputs of ingots and semi-finished products to Russian producers at below market price and, as a result, many

technologically and environmentally obsolete furnaces have now been reactivated to produce ingots.

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- **An agreement was reached in the context of EU-Russia bilateral WTO negotiations on 21 May 2004 to either significantly reduce or completely phase out export duties on scraps over a transitional period.**

## Textiles and Leather

### Export Taxes

#### 🟡 020040-Export taxes on raw hides and skins [2004-11-25]

In 1998 Russia introduced, for a non specified period, an export tax of 10% on raw hides and skins that has been consequently increased to 15% in 2000. Russia introduced further export licensing and in April 1999 it announced a further increase of the export taxes (up to 15%) . Since then several increases took place.

In 2002 Russia raised its export taxes/specific duties to the following rates (still in place):

CN 4101, 4102, 4102 - Raw hides and skins : 500€/1000 kg

CN 4104 : Tanned or crust hides and skins of bovine : 10%, but not less than 90 €/ 1000 kg

CN 4105 : Tanned or crust skins of sheep or lambs : 10%, but not less than 70 €/ 1000 kg.

The Russian export restrictions on bovine hides led to .

- a reduction of overall availabilities of the free market of hides and skins;
- increased pressure on prices of freely available raw hides;
- increase of production costs for EU tanners;
- further loss of relative competitiveness of EU tanners on the global leather market.

The issue had both been dealt with under the EU-Russia Partnership and Cooperation Agreement and during the negotiations of Russia's WTO accession. During bilateral talks with the European Commission, the Russian side usually referred to fiscal needs to justify the export restrictions on raw hides and skins. The Commission continually protested against the technical barriers that Russia uses to reduce her raw hides and skins exports and referred to the raw hides and skins issue as one of the major problems of concern to the EU.

An agreement was finally reached in the context of EU-Russia bilateral WTO negotiations, on 21 May 2004, to either significantly reduce or completely phase out export duties on raw hides and skins over a transitional period.

The Commission will be monitoring the implementation of the settlement.

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## INVESTMENT RELATED BARRIERS

Although Russia has made great strides over the past two years, in building up the political will to develop and then implement sweeping market reforms, much remains to be done, with some reforms still on the drawing board and others on the statute book but not yet in place on the ground.

The general feeling among EU investors is that the activities of private business are still severely over-regulated. There is still a lack of predictability in the operating environment for foreign companies, with overlapping or contradictory legislation and/or administrative competencies, which constitutes a major barrier to investment. Other difficulties routinely experienced by EU companies in gaining recourse to the Russian legal system for redress and/or enforcement of legal judgements also still act as a brake on investment, so as does tax levels, corruption and the extent, whether perceived or actual, of activity by organised criminal gangs in the Russian economy.

A recent study, carried out by the World Bank (FIAS) confirms that across the regions, the most often quoted Russia-specific obstacles hindering business development remain : (i) the lack of a functioning secondary private market for land, in particular the observation that regional governments tend to abuse the role of the state as the most important land owner to intervene in investment decisions; (ii) the tax regime, in particular the discretionary power imbedded in tax inspectors, since it is possible for the tax



authorities to define arbitrary revenue targets and to enforce them with fines and penalties, as an angle to interfere with business decisions; and (iii) obstacles faced by Russian as well as foreign business which are internationally active : next to the cumbersome regulations enforcing export revenue surrender requirements, reference is typically made to delays and corruption of the customs administration.

The EC has urged Russia to consider setting a clear deadline for achievement of the following reforms, which it considers would contribute to Russia's own objective to promote greater investment within a stable, transparent and non-discriminatory framework:

- relaxation of existing limits on foreign investment in certain economic sectors (eg insurance, aircraft, energy, alcoholic drinks);
- improved corporate governance, with legislation to define and enforce property rights, especially those of minority shareholders. (The draft Corporate Conduct Code is a step in the right direction);
- reasonable, transparent and predictable tax laws;
- open registration of real estate;
- speedy bankruptcy procedures;
- a high level of protection of intellectually property rights (IPR).

To have full impact, these changes will need to be accompanied by international accounting and auditing standards, including disclosure of share ownership , the absence of which currently provides a disincentive to enter into joint ventures with Russian companies.

- In the ongoing negotiations on Russia's WTO accession, the EC has requested that sub-federal legislation, regulations and measures that would be in contradiction to Russia's WTO commitments need to be revised, annulled or otherwise brought into coherence with WTO commitments, in order to ensure the security and predictability of access to the Russian market.

## Direct Foreign Investment Limitations

### ● 020030-Local content limitation [2004-02-03]

The law "on Production Sharing" places obligations on foreign investors to ensure 70% of local content for production and other equipment used in energy exploration, production and distribution projects.

#### Aircraft

### Direct Foreign Investment Limitations

#### ● 020034-Foreign equity limitation in the aviation sector [2002-04-10]

Russian legislation currently limits to 25 % any foreign equity participation in the aviation sector.

#### Services - Financial

### Direct Foreign Investment Limitations

#### ● 990063- Insurance - Ownership restrictions [2002-02-28]

The Russian insurance legislation, the Federal Law N° 204-F3 of 20 November 1999 "on the Introduction of Changes and Additions in the Law of the Russian Federation on the Organisation of Insurance in the Russian Federation" introduced several stringent restrictions on the access of foreign insurers to the Russian market. The main one is the prohibition for companies with foreign shareholding above 49% to undertake in Russia life insurance, compulsory insurance schemes, compulsory State insurance, insurance of property related to the implementation of deliveries or contractual services for State needs and insurance of property-related interest of State-owned and municipal organisations.

Other restrictive provisions pertain to the introduction of a quota limiting at 15% the aggregate foreign participation in the total charter capital of Russian insurance companies, the reservation of the functions of single executive body and chief accountant to Russians citizens, the payment of foreign shares in charter capital, the advance permission to increase charter capital, the requirement of 2 years of experience on the Russian insurance market, reserves and ratio between assets and obligations.

Those conditions are hardly soothed by a grandfathering clause that is unclear.  
The European Commission particularly regrets the current restrictions on the activities of EU

investment funds, especially the 49% limit on the shareholding and the impossibility to obtain licences for investment in foreign currency denominated assets and for collective investment schemes. The Commission considers that the Russian 1999 Law on insurance breaches the EU/Russia Partnership and Cooperation Agreement (PCA) .

During numerous intensive consultations with the Russian authorities, the Commission has repeatedly urged Russia to comply with their PCA commitments in insurance. No satisfactory progress has been achieved so far. Consultations on this issue are going on.

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- ***The EU was repeatedly urging the Russian party to implement the PCA properly . After lengthy negotiations with the Russians, a satisfactory settlement was finally obtained to remedy the violation of the Partnership Agreement, and to open life and compulsory insurance activities to EU companies. The Commission continues to monitor the implementation of the bilateral settlement carefully.***

## Services - Transport

### Tax Discrimination

#### 🟡 970290- *Trans-Siberian royalties* [2004-10-07]

The Siberian overflight charges, which date back to the Soviet era, have been a longstanding market access issue between the EU and Russia .

Indeed, EU airlines flying routes over Siberia (to and from the Far East) are required to conclude so-called "*commercial agreements*" with the Russian national carrier Aeroflot, as a precondition to receive approval for those operations by the Russian authorities. Based on these imposed agreements, the European airlines, members of the Association of European Airlines, are forced to pay, as a condition "*sine qua non*" to overfly Siberia, € 220 million per year to subsidise their Russian competitor Aeroflot.

The Russian side seeks to justify such charges as a form of "*compensation*" to Aeroflot for not using specific routes, or for not being required to land in Moscow (something which Aeroflot would have to do if it were operating the same routes), thus allowing the foreign airline to save the airport fees. The "*compensation*" payments that must be agreed upon with Aeroflot bear no economic relationship with actual costs, but are calculated in a way which ensures that using the Siberian space is still cheaper for foreign airlines than to circumvent it.

The high amount imposed by the Russian measure has a heavily discriminatory character and is detrimental to the competitiveness of EU airlines. In addition, Russia has recently authorised transit services over Siberia without charging for transit to airlines from US, Canada, and Asian carriers (for the new North-South Cross-Polar routes between North America and South Asia). This aggravating fact of discrimination between trade partners amounts to disregarding MFN principle.

The issue was being dealt with both under the bilateral EU-Russia Partnership and Cooperation Agreement and during the bilateral negotiations on Russia's WTO accession.

- ***On 24 May 2004, the EU and Russia signed the agreement concluding the bilateral market access negotiations for the accession of the Russian Federation Federatin to the WTO . An agreement was i.a. reached to revamp the system of charges currently applied to EU airlines overflying Siberia to make it cost based, transparent and non-discriminatory by 2013 at the latest phase. The Commission continues to monitor the case.***

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## IPR

As regards Community-Russia relations in this field, the Partnership and Co-operation Agreement (PCA) contains provisions that aim to ensure an adequate protection of intellectual property, namely on copyright, patents, trademarks and industrial designs. Russia has committed to adopt a level of protection similar to that existing in the Community by 1st January 2003. During the EU-Russia negotiations on WTO accession in 2002, Russia also confirmed its intention to apply the WTO TRIPs Agreement as from the date of accession.

The level of protection of intellectual property rights in the Russian Federation does not yet meet the standards established in the European Community and contained in the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). This applies to the legislation on intellectual property rights in place as well as to the enforcement of these rights.

### Legislation

Russia has adopted in recent years a number of laws on the protection of intellectual property. These laws have generally been welcomed by EU right holders, since they are the basis for the building of a whole system for the protection of intellectual property rights which corresponds to modern international standards.

Russia is preparing new legislation in a number of areas relevant to the TRIPS Agreement. These include draft Federal laws concerning Trade Secrets; Patents; Trade Marks, Services Marks and Appellations of Origin; Legal Protection of Topologies of Integrated Circuits; Legal Protection of Computer Programmes and Databases; and copyright and related rights. Russia is also considering draft amendments to the Criminal Code and the Criminal Procedure Code, the Civil Procedure Code and the Arbitration Procedure Code and the Customs Code.

Sources say that the second reading of the draft laws amending existing legislation on Trademarks and GI, Computer Software and DB Patents, Layouts of Integrated Circuits has now taken place. However, it seems that we must still wait for the final adoption of that bill. The draft act amending Copyright has been submitted to the Duma for first reading. The laws on Trademarks and Patents have been enacted earlier in 2003. Other pieces of legislation remain in the pipeline.

- Enforcement

Enforcement of intellectual property rights will remain the biggest problem in Russia. EU Industry continues to complain about blatant non-respect of existing legislation, esp. in the pharmaceutical and phonogram sectors. Current rates of piracy and counterfeiting remain at unacceptably high levels leading to major losses for European companies and for the Russian budget due to tax evasion. The Russian side also shares this assessment and even President Putin has called for additional efforts to combat these illegal activities. Recently, newspapers reported the installation of a special taskforce on IPR enforcement.

The Commission has already expressed its concerns about a number of issues. It has also expressed its expectation that the current anti-piracy and anti-counterfeiting activities of the Russian administration will be strengthened.

## **Pharmaceuticals Enforcement problems on IPR**

### 030057- *Pharmaceuticals: Trade Mark Infringements* [2005-02-16]

The Commission continues to receive complaints concerning the counterfeiting of medicines in Russia and the distinct but closely related problem of "look-alikes". The weak and inadequate enforcement of intellectual property legislation, inadequate penalties, lack of a unified government political will, and counterfeiters' political influence are major reasons for concern. EU companies are further concerned about introducing their new innovative medicines to this market given that they have had to recall medicines confronted with counterfeits at a significant cost and without an opportunity to receive compensation from perpetrators. Current penalties for intellectual property rights violations appear not to be adequate to compensate for the injury the rights holder has suffered because of an infringement of their intellectual property rights.

Although the appearance of counterfeit drugs on the Russian market is a relatively recent phenomenon (since 1997), the number of issues has risen dramatically. At the end of February 2003 the Ministry of Economic Development and Trade announced that approximately 10 % of all medicines sold in Russia are counterfeit with a value of \$200-300 Mio.

The Commission is currently tackling this issue in all relevant bilateral meetings with Russia in the framework of the EU-Russia Partnership and Cooperation Agreement as well as in the current negotiations on Russia's WTO accession.

