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RUSSIA AND THE WTO: EXPERT DEBATES AND CONTROVERSIES

CONTENTS

Preface by FIBRA	2	Peter Carlo LEHRELL FIBRA
Preface by the editors	2	Hans-Georg HEINRICH Ludmilla LOBOVA ICEUR-Vienna
Welcome Address	3	Reinhold MITTERLEHNER Federal Minister of Economy, Family and Youth
Russia's WTO accession: a controversial debate	4	Ruslan GRINBERG Vladimir OBOLENSKI Russian Academy of Sciences, Institute of Economics
The construction industry prepares for Russia's accession to the WTO and the signing of a new Agreement with the EU. A View from Russia	10	Mikhail KAIKOV Vice President of the Russian Builders Association
WTO accession: a chance to revitalize competition in Russia	18	Oleg KITOV Department of Economics, University of Oxford
Central Asia and the WTO	21	Gregor LEGELAND Senior student (Vienna University, Department of Political Science)
Law enforcement in Russia and WTO accession	23	Andrej STEINER ICEUR-Vienna

Peter Carlo LEHRELL,
Chairman of FIPRA International

Preface by FIPRA

Russia's WTO accession process must have felt like a long march across the desert ending up in Doha and being led by a distant oasis mirage. We need no more stumbling stones because the slow pace of progress betrays the vast importance of bringing Russia's modern economy into the WTO. Accession will be important not only for trade with WTO members but also because it ties Russia into a global system of governance. And it does so at a time when the international rule of law is under threat from many quarters, at a time when our economies all need the boost of open markets and at a time when the world's global challenges need intergovernmental solutions more than ever before. This is a time for boldness. Thus accession is also milestone on the road towards Russia's ever closer engagement with the European Union. This journey brings practical consequences and opportunities for every company in Russia that does business with the EU and vice versa. We should invest time in getting to know each other and each other's institutions. The time for building relationships is here. The time for posturing is over.

Hans-Georg HEINRICH, Ludmilla LOBOVA
ICEUR-Vienna

Preface by the editors

Russia's WTO accession which is expected for the end of this year, is a major breakthrough in European-Russian relations and a step which makes Russia's integration in the global free trade system irreversible. The first step to open Russian society toward the world was epitomized by Gorbatschev's buzz phrase "the process has started". We are now witnessing the beginning of a process which is likely to transform not only the country's economy but also its legal system and its institutions. As the contributions of our Russian authors demonstrate, the expert public in Russia is fully aware of the significance and the expected consequences of WTO entry which is supported by the political leadership as well as the expert community. Russia herself will have to come to grips with the staggering task of adapting to WTO and EU standards, but the developed industrial countries can facilitate and assist this process. This time, however, the rules of a genuine partnership on an equal footing should be heeded in order to avoid the pitfalls encountered during the first "Great Leap Forward".

Reinhold MITTERLEHNER

Federal Minister of Economy, Family and Youth

Welcome Address

The Russian Federation is a global player with ever increasing importance for Europe and Austria. Austria's foreign economic relations with Russia have developed - by double-digit growth rates - very favourably since years. Beside its significance as an energy supplier Russia is a key export market and investment partner for Austrian companies.

The recent economic and financial crisis has underlined Russia's need to modernise and diversify its economy. As the main source of Russians foreign investments, the European Union seems to be the natural partner for this process.

Russia is an overall strategic neighbour and partner for the European Union. It is one of the main objectives of both the European Union and Austria to have Russia still on their side as a constructive partner addressing the challenges ahead on European and global level. The ongoing negotiations on a new "EU-Russia Agreement" shall put this partnership on a firm and comprehensive contractual footing. This, in turn, presupposes Russia's accession to the World Trade Organisation. Russia's joining the WTO is important for its role in the global economy and a vital element in creating an attractive, stable and predictable environment for trade and investment also in the bilateral context.

Russia first applied for WTO (GATT) membership in 1993. It usually takes between five and seven years to join the World Trade Organisation, but Russia has been negotiating its entry for more than 17 years. In recent months major differences, such as the question of export duties on raw materials, could be largely settled so that negotiations are now approaching the final stretch.

As soon as Russia is member of WTO, its trade relations will be based on predictable multilateral rights and obligations, including the possibility of recourse to trade dispute settlement. Russia's WTO accession as soon as possible will be beneficial for Russia as well as for all its trading partners.

It's all the more important that there are institutions like ICEUR-Vienna that provide a profound insight into the manifold relations between the European Union and Austria on the one side and Russia on the other side and by this, ICEUR-Vienna contributes significantly to the deepening of this relationship. The current issue of its working papers on the topic "RUSSIA AND THE WTO: EXPERT DEBATES AND CONTROVERSIES" seeks to highlight different aspects of Russia's WTO membership. I would like to congratulate ICEUR-Vienna on this highly-interesting publication which I warmly recommend to the interested audience.

Dr. Reinhold Mitterlehner

Russia`s WTO accession: a controversial debate

For 16 years, Russia has engaged in negotiations over her WTO accession. Nevertheless, an unabated discussion has continued whether Russia should or should not enter this international organization, under which conditions and when this could be achieved.

This discussion has stopped for some time, only to erupt with new force later. Its participants are politicians, public personalities and business people. The Russian academia has also joined the fray. In the past, institutes of the Russian Academy of Sciences and of universities as well as academic experts have contributed a significant number of publications in which the potential risks and advantages of accession were evaluated on the basis of an analysis of Russia`s bargaining position and possible options for a final agreement. Mathematical modeling was widely applied. In the course of the debate a diverse range of opinions emerged which frequently contradicted each other and voiced various political, economic and social arguments.¹

Discussions peaked at the turn of the millennium, when the information period of the negotiations concluded and the Russian delegation, together with the WTO working group began the elaboration of conditions for accession. Another public interest high for the consequences of WTO entry was recorded in mid-2010, when in the course of negotiations, the contours of possible obligations for Russia became visible, obligations arising as a result of the coming liberalization of the trade regime and the adaptation of national legislation to WTO norms and standards.

Today, we can safely state that as a result of this debate, the overwhelming majority of participants have arrived at the conclusion that there is no alternative to WTO accession. Of course, discussing the advantages and drawbacks of membership in this organization has not turned all participants into stout partisans of WTO entry. In the media and in scientific publications one can find predictions which paint a gloomy picture of the consequences of membership.

In the current year the Russian delegation stepped up its negotiation activities. Judging from the statements of countries which had the most serious contentions about the volume of Russian obligations emerged, one can expect Russia to become a WTO member in this year.

Against this backdrop, it appears important to revisit the public debate and to test the arguments of the partisans and opponents of WTO accession for substance and validity as well as to determine the ultimate balance of prospects and risks ensuing from membership into this organization.

¹ Cf. For example, Economic consequences of Russian WTO accession, Moscow, RAS, 2002 (Russ.); Russia on its way to WTO, Moscow, RAS, 2001; Analysis and evaluation of possible economic consequences of Russia`s accession to WTO for the most vulnerable branches and sectors and regions (Russ.), Moscow, MGU/VSE, 2007; Ivanov, D.I., The Russian economy under WTO, Moscow, Institut Evropy, RAS, 2007; Grinberg, R.S./Tatarkina (eds.), A.I., Assessment of the social-economic consequences of Russian WTO accession (Russ.), Moscow, Ekonomika, 2007.

Why Russia must not join the WTO

The arguments that highlight the negative consequences of accession fall into three categories.

The main argument put forward by the opponents of WTO entry asserts that Russia's economy is not ready for WTO participation at this point. It is structurally deformed: It is dominated by a few extractive industries whose produce is in demand in foreign markets, while the processing branches use outdated technologies and are unable to compete with their products.

The inevitable dismantling of the tariff walls forced upon Russia as a result of its entry into WTO, will lead to an increased influx of foreign-made goods into the Russian markets and a massive crowding out of domestic producers. Consequently, they argue, accession should be postponed or, in the worst case, Russia should bargain for a maximally protracted transition period (10-15 years). This time should be used to modernize the weaker sectors and branches in order to upgrade their competitiveness and effectiveness. Among other things, state subsidies should be employed for this end.²

The Russian and International Union of Manufacturers took precisely this position. Based on the opinion of 22 unions and associations, it proposed "not to renounce WTO accession and simultaneously not to push this process. A structural reconstruction of certain manufacturing branches is imperative which is the basis for a new tariff policy." This said, the Union representatives underlined that "for Russia, the main problem of accession lies in the conditions for membership in this international organization, the balance between advantages and concessions, new opportunities and likely losses..."³

Similar ideas were advanced by entrepreneurs from various sectors and economic branches, in the first line from machine building (car and airplane manufacturing), light industries and agriculture. They argued that the customs tariffs in force during the 1990s provided only a weak protection for the domestic markets, and did not boost the economy's structural reforms. Only the devaluation of the Ruble during the financial crisis of 1998 proved to be a formidable barrier for the access of foreign goods to the Russian market. According to them, the lowering of tariffs following WTO entry would deteriorate the situation of domestic producers dramatically. "There would be mass lay-offs in the manufacturing branches, and enterprises will be closed down. As a result, we will face shock therapy again, but this time the raw material-based economy which has emerged during the past century, will be deep-frozen for good."⁴ The inclination of business toward putting brakes on the accession process was exacerbated by the assessments of some experts who held that after WTO accession 50-60% of the industrial and 80% of the agricultural enterprises would simply stop to operate and more than 30 million people would become unemployed.⁵

The other argument advanced against the inexpedience of a fast-track accession was based on the claim that WTO membership would hamper the elaboration and implementation of the country's trade policies. For example, it was stated that the accession would entail "the loss of national sovereignty in a significant number of decisions in the field of foreign trade".⁶

They also stated that the WTO would cripple the country's independent trade policies. They stressed that Russia would have to change their entire system of foreign economic activities as a result of WTO accession. This, according to the WTO critics, could have a dramatically negative impact on Russia's foreign economic relations and on the entire economy: According to them, WTO rules do not permit a structural reform of the economy. Several experts went even farther, pointing out that the WTO was "a US-designed model of the global system" and its objective was to "gain control of the raw material basis and the large territory of Russia".

² For a comprehensive argument for this position cf. Remenchukov, K. *Russia and the WTO. Truth and Fiction* (Russ.), Moscow, 2002.

³ Cf. Ryzhkov, N. *The interests of domestic production are paramount* (Russ.), *Promyshlenny Mir*, 2001, No.4. pp. 14-15.

⁴ Milyukov, A. *New issue of the „shock therapy“* (Russ.), *ibid.*, pp. 20-22.

⁵ For a reference to such an assessment by experts of the RF Federation Council cf. Platonova, I./Nagovitsyn, A./Korotchenya, V. *Transformation of the world currency system and Russia's position* (Russ.), Moscow, 2008, p.206.

⁶ Glazev, S. *Economic globalization and the CIS countries. Proceedings of the International Scientific-Practical Conference on Economic Globalization, Regional Integration and the Impact of These Processes on the Situation of Workers in the CIS member States* (Russ.), Moscow, General Conference of Trade Unions, CIS Association of Academies of Science, 2002, p.21.

Another argument against participation in the WTO departed from the idea that its norms do not permit to protect national economic security which excludes a takeover of key positions in strategically important branches by foreign providers of goods and services. This argument harked back to the experience of the first stage of market reforms, when foreign investors who had obtained control over Russian companies operating in such branches, pursued only one objective, namely the elimination of competitors. It was also said that WTO rules do not allow the protection of new startup sectors and branches which are not yet able to compete with foreign competitors on an equal footing, including the service sector.

In the course of public debates and discussions there were other critical objections concerning Russian WTO membership.

Why Russia should join the WTO

The protagonists of accession, who refer to the experience of other countries, point out that as of today, almost 180 countries regard membership or the initiation of negotiations for WTO membership a favorable option. Practically the entire foreign trade volume of Russia is absorbed by these states. The WTO member states form the so-called world trade system which is based on a unified legal space. By joining WTO, Russia would obtain legitimate access to this legal space and would enjoy international legal protection under WTO norms. This is true of important provisions such as most-favored nation treatment and equal treatment for Russian services and goods, protection from discriminative taxation and customs tariffs, free transit, protection against discriminative action in the application of technical, sanitary, and phytosanitary measures. It would provide certain guarantees against an arbitrary use of trade policy measures of such as quota setting, and anti-dumping as well as compensatory action. Such a protection under international law would, in the final analysis, stimulate the development of foreign trade and promote Russian interests abroad. The WTO agreement, runs another argument, is in fact a multilateral treaty. Consequently, in case she stayed outside, Russia would be isolated in her trade policy, and would be forced to maintain her cumbersome system of bilateral treaties with her partners.⁷

Another incentive is that WTO membership would permit Russia to use the organization's effective mechanism of conflict resolution. The need to resort to such mechanisms has appeared at the beginning of the 1990s, when Russia opened its domestic market and was confronted with selectively applied trade barriers in foreign markets which concerned exactly those goods and services where Russia has comparative advantages. Domestic producers faced unfair competition by several foreign companies in domestic as well as international markets.

A frequently asserted argument for WTO accession has it that under the given conditions, where 94% of the world trade is absorbed by WTO members, Russia can engage in active trade diplomacy only if it enjoys full membership rights. It would open the opportunity to participate in new negotiations on the legal basis of international trade. These negotiations are held already in the framework of the Doha Development Round and will probably be extended in the future. Absence from these negotiations would entail Russia's isolation from the world trade system and would prevent the country from defending and protecting its national economic interests on a par with WTO members. The longer Russia stays outside of WTO, the farther it would trail behind the processes in the world trade system and the backlog of requirements and obligations in case of an eventual accession would be much larger.

In response to the criticism by WTO opponents, the partisans of accession highlight a number of incorrect arguments concerning the objectives of the organization as well as the status of its legal documents.

Firstly, the WTO is not an instrument of free trade: it permits the use of tariffs and other protective measures under certain conditions. According to WTO experts, the WTO system should instead be referred to as "a system of norms and rules directed at stimulating open and fair competition...."⁸

⁷ The general argument of partisans of WTO accession is summarized by Dyumulen, I., *The WTO: Economics, Politics, Law* (Russ.), Moscow, 2008, pp.245-246.

⁸ *Trading into the Future*, WTO, Geneva 2000. p. 10.

Secondly, WTO membership does not entail the loss of the country's economic sovereignty. It is not overly different from membership in other international organizations which also comes with certain obligations for their members. The main consequence for Russia is the obligation of the government to enact foreign trade rules that comply with WTO standards.

Thirdly, Russia would reserve all sovereign possibilities to frame and execute its trade policies if they are compatible with WTO rules. This limiting circumstance is valid for all WTO members.

Fourthly, WTO accession would not entail a substantial revision of the legal basis for foreign trade. The rapprochement of relevant Russian legislation to the GATT and WTO norms already began already in the 1990s and has become part and parcel of our legal system.

To complete this work the adoption of laws and amendments to valid legislation is necessary. This concerns licensing certain activities, technical regulations, the import regime for cryptographic and pharmaceutical products to the Russian Federation, and also the protection of intellectual property regulated in the Civil and Customs Codes.

Fifthly, the conditions for Russia's participation in WTO do not imply a full opening of domestic markets. In case of an entry, our country will preserve a relatively high level of tariff-related protection measures and can employ a comprehensive system of extraordinary protective measures against well-meaning and unfair competition. On top of that, also the possibility to employ technical import limitations will be preserved. WTO does not deprive countries of the possibility to defend domestic production by currency, tax, customs and technical policies.

Sixthly, WTO rules permit the protection of new developing branches. The problem is to define the level of such protection for these branches in the accession protocol. In a practical sense, this is a question of tactics and substance in the negotiations on the conditions of access to domestic markets.

Finally, WTO rules reserve the possibility of protecting the production of goods and services on the grounds of national security. After accession, this clause will have to be utilized in a smart way.

Summary (in lieu of conclusions)

Like the absolute majority of Russian politicians, we are convinced that our country cannot continue to remain outside the world trade system, which currently consists of 153 states. By assuming WTO membership and adopting the principles, norms and rules of this organization, Russia would join a unified international legal space which spans the overwhelming part of world trade. This would give the domestic exporters the possibility to operate in the WTO markets under the same conditions which they grant to each other in trading goods, services and in the protection of intellectual property. It is understood that access to the markets of third countries will not be based on dozens of different trade agreements, but on one universal international treaty.

After WTO entry, Russia would additionally gain access to the WTO conflict resolution mechanism which is activated in case any member state introduces illicit limitations against domestic exporters of goods and services. She would be able to participate in multilateral agreements on follow-up trade liberalization.

Obviously, Russia will have to accept and to painstakingly execute concrete obligations in exchange for the advantages outlined above. These consist of a gradual lowering of tariffs that protect the domestic market, in an opening of certain segments for foreign producers and a reduction of the limits for agricultural subsidies. We share the general conclusions of independent experts which show that WTO accession would not create unsolvable problems in any economic sector. Some companies which are already non-competitive will experience short-term problems. Yet, WTO membership will not significantly affect economic growth in general or in certain branches; the change will be within the error margin. Other factors such as global business cycles, oscillating exchange rates, the dynamic of demand and supply in domestic and foreign markets, the level of taxation, domestic loan policies or investment activities will have a much stronger effect on the Russian economy than the fulfillment of Russia's obligations before the WTO.

In other words, the possible negative impact of WTO membership is clearly different from the consequences of the shock therapy in the 1990s or the Russian financial crisis of 1998 (where the GDP plummeted by 5 p.p.), or the impact of the present global crisis which reduced domestic industrial output by almost 8 p.p. A negative effect can be classified as the necessary costs of adapting the entire economy to WTO rules.

We are confident that in the long run WTO participation will generate positive effects for Russian economic growth and will stimulate the development of trade and investment as well as competition in domestic markets through the definition of a crisp framework of international legal norms for the foreign trade system. This said, a certain part of the ruling elite, of business and research organizations, continue to state that the status quo of the Russian economy does not qualify the country to operate under WTO conditions. They particularly stress that in case of accession a significant part of industrial and agricultural companies could go bankrupt under the pressure of foreign competition which would inevitably strengthen in domestic markets as a result of liberalized market access.

In our opinion, if this were to happen then it would force Russia to renounce WTO membership for good. The thesis about the lacking capability of the Russian economy to participate in the international trade system was advanced as early as in the 60s, when government administrators debated the possibility of joining multilateral trade agreements in the framework of the Tokyo Round of GATT negotiations. Since then the structure of the Russian economy has not become more balanced – on the contrary, it has become more lopsided towards the extractive and the primary processing sectors. According to the government prognosis, the situation will hardly change for the better in the near future, at least not the next 2-3 years. To adjourn WTO accession still further and to wait for structural change is far from rational, since it would provide immediate advantages as outlined above.

We agree fully with the statement that „it would be preferable to enter into WTO armed with a government program of economic development, an integral part of which would be formed by the conditions for accession. Ideally, such a program should include the setting of conditions for a structural change of the economy (mobility of production factors), options for the resolution of social problems, sectoral programs for the presence in domestic and foreign markets. In this respect it is important that governmental economic policies should be oriented towards boosting the competitive position of domestic producers not so much in a legal but in a factual sense. Such a policy is needed by Russia in any case, irrespective of WTO entry.⁹

In our opinion, WTO accession will not, as asserted by some Russian experts, become an obstacle in the way of a structural reform of the Russian economy. On the contrary, the preliminary agreement reached with the working group on Russian accession which determines levels and deadlines for the reduction of import tariffs, could become a basis for the elaboration of a balanced industrial policy and a catalyst for competition which would enable the elimination of structural deformations. The obligations shouldered by Russia will permit to devise smart politics of selective and limited protectionism which would blend with industrial policy.¹⁰

In any case, irrespective of the outcome of negotiations and the timing of WTO accession, Russia has to carry through the modernization of her economy including structural transformation and technological innovation of the obsolete equipment park as well as the perfection of the institutional context, if she wants to reduce the distance to advanced economies. To move along this road requires the establishment of developed markets for the production factors (labor, capital and land), the improvement of the investment climate including the perfection of the systems of taxation, credits, insurance, leasing and domestic innovation. The performance of these markets is dependent on the entrepreneurial sector.

In this regard, one has to agree with the position of the experts of the Center for Macroeconomic Analysis and Short-Term Forecasts who hold the belief that WTO accession is only superimposed on the problems

⁹ Korolev, I.S (ed.), *The WTO and national economic interests* (Russ.), Moscow, 2003, p. 308.

¹⁰ Depending on the line of goods, the Russian tariffs will oscillate between 0 and 20%. Instead of the 4 tariff levels in force at this point (5, 10, 15 and 20%), the new system will enact 0-level duties for several positions. For most positions, tariffs will begin with 2-3% and assume all numeric values including decimal numbers.

which exist in Russia at this point and that it will function only as a catalyst of ongoing processes. According to them, „the basic tendencies of economic development will not at all be influenced by the factor of accession or non-accession to WTO, but by the general economic dynamic.”¹¹

As for the gloomy forecasts concerning the liquidation of a great number of enterprises as a result of the reduction of import tariffs, they can be classified as alarmist exaggerations. The authors of such forecasts forget that during the last decade Russia factually already reduced her tariffs on all imported goods. During 2001-2002 the Russian government changed the import tariffs completely by reducing the quantity of eligible customs fees or by unifying them in regard to goods with identical or similar characteristics. The transition from a seven-level system (from 0 to 30% with 5% intervals) to a four-level setup (from 5% to 20% with the same distance between steps) set-up was achieved.¹² The customs tariffs for items cleared for a fee of 30% were reduced to 20%.

This tariff reform went essentially unnoticed by Russian producers and did not stop production and industrial growth. For example, during 2004-2008 the output of chemical industry increased by 18 p.p., that of metallurgy by 24 p.p., of equipments by 63 p.p., of means of transport by 57% and of electric appliances, electronic and optical equipment 2.1 times.

We would like to stress that the reduction of import duties by 2 p.p. (their weighted average fell from 13 to 11%)¹³ was fully compatible with the volume of tariff duty reductions for industrial and agricultural goods agreed with WTO in a preliminary manner (about 3% in each case). This is why a certain disarmament during the transition period is not apt to lead to any serious difficulties in production.

Of course, WTO accession will entail increased imports and increased competition in the domestic markets. But the development of a competitive environment is one of the first-order institutional tasks of the country. Competition is still very feeble in Russia. This is evidenced by the results of regularly conducted analyses by Russian experts.

After accession, Russia can regulate the level of competitiveness inside the country, first, through the customs duties which can be utilized as protectionist tool for domestic production, and second, by using non-tariff instruments permitted by WTO, such means of protection as anti-dumping and compensatory fees, technical barriers, as well as sanitary and phytosanitary standards. Russia must learn to apply these instruments with the same determination as other participants of international trade. Until this day, she has used them very rarely, in fact for her entire history, she has applied no more than 8 protective and 3 anti-dumping means against aggressively growing imports. Globally, according to WTO data, 2374 anti-dumping, 139 compensation and 99 protective means were in operation during 1995-2009.¹⁴

On top of that, WTO membership will support the efforts to overcome the trade barriers against Russian goods in world markets. Accession alone gives our country the right to request the revision of 97 limitations enacted against Russian goods at this point. This includes 45 anti-dumping measures, 45 non-tariff barriers and 7 protection measures which will have to be challenged individually. Apart from these obstacles, Russian exporters were, in mid- 2010, confronted with 2 anti-dumping proceedings, 5 special protection investigations and 6 revisions of antidumping measures introduced earlier.¹⁵ The Ministry of Economic Development estimates the sum of damage from the trade limitations introduced by other countries at USD 2bn which is equivalent to 0.7% of the total export of Russian goods in 2009.

To sum up the results, we can refer to the assessment delivered by Premier Putin on WTO principles and rules. He highlighted the fact that „WTO is neither the absolute evil nor the absolute good. WTO is a tool. Those who can handle this tool will be stronger”.¹⁶ Today, the task of the Russian state and domestic business is to learn to operate smartly and effectively on the basis of the legal documents of WTO.

¹¹ WTO and Russia (Russ.), TsMAKP, 2004. p. 3.

¹² Oreshkin, V. Russia's foreign trade complex under the conditions of integration into the world economy. (Russ.), Moscow, IMEMO RAS, 2002, p. 123.

¹³ Liventsev, N. Lisovolik, Ya, Topical problems of Russian accession to the WTO (Russ.), Moscow, Ekonomika, 2002, p.33.

¹⁴ Official site of the WTO; www.wto.org; accessed 30-11-2010.

¹⁵ Official site of the Ministry of Economic Development; www.economy.gov.ru; accessed 30-11-2010.

¹⁶ Rossiiskaya Gazeta, 19-04-2002.

Mikhail Kaykov

Vice President of the Russian Builders Association

The construction industry on the eve of Russia's accession to the WTO and the signing of a new Agreement with the EU. A View from Russia

The modernization of the construction branch is a hotly debated issue in contemporary Russia. Despite the staggering challenges facing our branch it is becoming more evident day by day that there are problems with the deployment of new technologies, and materials, the employment of experienced staff, construction prices and other shortcomings. I would like to share my opinion about these issues with European colleagues who are involved in the Vienna process, in the activities of the Russia-EU Industrial Round Table, with experts and representatives from different Europe business branches. I am confident that this information will be of interest, as the construction branch is linked with more than 50% of all industries.

We have struck a record by conducting negotiations on WTO accession longer than China, which concluded after 16 years. Our negotiation process in 2010 topped this by one year, with the Russian Federation submitting its application for WTO membership in 1993. Bilateral negotiations were completed in 2004. Since then we have had multi-party negotiations lingering on for six years. Today, we have concluded bilateral agreements with our major economic partners - the European Union and the United States, to enlist their support. Russia, apparently, will become a full WTO member next year. This will be beneficial both for itself and for other member countries of the organization. We are likely to benefit from the growth of foreign direct investment into the Russian economy and from reduced prices for imported consumer and manufactured goods, while foreign banks and insurance companies will have more opportunities to do business in the Russian market. But Russia is set to become the biggest consumer market in Europe within the next 10 years, and no multinational company working in the field of consumer goods, finance, food, building or vehicles, can ignore this fact. If some foreign companies intending to operate in Russia are now concerned about the safety of their investments in Russia, WTO membership should dispel many of these fears.

Russia and the EU are now actively implementing a proactive program – “Partnership for modernization”, launched pursuant to a positive political decision taken last year at the EU- Russia Summit in Stockholm, in the framework of a similar event in Rostov-on-Don which took place on 1 June 2010 as well as necessary specific instructions and recommendations handed down by the Russia-EU Round Table of Industrialists. The results achieved since then are associated with giving meaningful content to the joint initiative “Partnership for Modernization”, with the positive dynamics in the visa dialogue, and with cooperation concerning harmonization of technical legislation and standards. Nevertheless, a number of issues must be negotiated and discussed further, such as the volume of our agricultural subsidies, a priority list for technical standards, including sanitary standards and standards which require the compliance of legislation with EU norms. In summer 2010, a memorandum was signed in Rostov-on-Don to the effect that entirely concrete issues will be addressed to promote the "partnership for modernization". Emphasis is placed on creating a favorable air for foreign business persons, especially investors.

A new basic agreement between Russia and the EU has been also under discussion since 2006. Eleven rounds of negotiations have already been held, and the next one, the twelfth is expected soon. In the meantime, the former agreement dating from 1997 is still valid. Its term is automatically extended until the new agreement is signed, but in order to formulate in a new agreement provisions relating to trade and the economic sphere, it is necessary to wait for the results of WTO negotiations. By 7 Dec. at the Summit EU - Russia held in Brussels, all remaining doubts which related to the way how our country will join the WTO had been resolved, taking into account the fact that Russia is a member of the Customs Union. "We will join the WTO separately, but being in a Customs Union. It's not a contradiction. There are many unions around, but only one WTO ", - said Russian President Dmitry Medvedev. This implies that Russia and the European Union could really close the question of RF membership in the WTO.

The fifth Russian forum "Development strategy for the housing construction in Russia" was recently held in Moscow. Among the topics discussed was the restoration of the construction industry. More precisely: the industry really needs not only restoration, but moreover, intensive care. For the 9 months period in 2010 only 33 million square meters of housing was built in Russia. That's the lowest level since 1997 and in some areas; the housing issue is turning from a social into a political problem. This year we will build even less. The reason is due to the fact that to finish a building this year, it was necessary to dig the pit and lay the foundation the previous year. 50% of the apartments completed in 2010 had been ready 50% of the time in 2009. The same year the volume of uncompleted construction is even smaller than the previous one, so we can hardly expect the implementation of the leaders' ambitious plans. To change this situation we need to solve the problem with construction funding. Among the members of the Association and the Union which I represent, there is no company that could receive a bank loan for construction at reasonable interest rates. The Russian state supported banks to such an extent that now it is necessary to restore the credit system at least for the construction industry the way it worked before the crisis. Nowadays the problems regarding the long clearance procedures, connections to the supply nets, and skills of construction workers have still not been solved. Problems of estimate pricing, and norm setting stay acute; there is no modern legislation base. The costs of deliverables are widely hiked. If this occurs in commercial construction, it's private business. But the work cost is overpriced by 85% in government projects as well. The problems in the construction industry are being discussed from public rostrums, but public servants do not take concrete action. To make matters worse, the bar is permanently lowered: first, in 2010, it was planned to build 80 million square meters, then this changed to 60 million. At the same time people who were waiting for housing had no choice. There is demand for housing but no supply, consequently prices are rising. One of the main factors hampering Russian economic development is the state of infrastructure which includes coming to grips with technical regulation and self-regulation of the construction branch. Today many infrastructural facilities which have been constructed in the Soviet era are becoming outdated and as a result are worn out:

- The physical depreciation of housing fixed assets remains at 60% level, and in some regions this figure reaches 70-90%;
- One-third of Russian hospitals and clinics requires overhauling;
- Only 39.6% of Russian roads are negotiable according to the norms of transport use;
- The length of power lines that are in poor or unusable condition is increasing annually;
- There is high wear and tear in the energy sector, which increases the accidents and risk of dangerous objects.

As a result, it is clear for everybody that to perform the necessary upgrade of existing and to build a brand new infrastructure entails staggering investments. And in terms of budget deficits the most important step for government policy in Russia is to create favorable conditions in order to attract foreign investment into the country's economy, particularly in construction industry, to implement infrastructure projects and develop regions. Among the forms of state support to maintain sustainable investment are, in addition to adopting antitrust actions, establishing favorable conditions for land use, the protection of investor interests, upgrading the tax system, the development, approval and financing of investment projects together with foreign countries, working out mechanisms for Public Private Partnership (PPP) projects, and improving the legislation base for the construction industry.

PPP projects should be realized in a novel format for Russia, namely on the basis of life cycle contracts (LCC). LCCs have been widely used in Europe for over 15 years, including the construction of highways, high-speed rail tracks, medical centers, housing and utilities, etc. One of the problems of LCC development in Russia is the impossibility to apply "legalized" international and European standards, and the availability of detailed building regulations and state standards that restrict the choice of the right technical solutions for design and construction.

Thus, the necessity to implement an alternative system of technical regulation in Russian construction industry is obvious. This includes the possibility to form public-private partnerships.

High-end approaches for the implementation of infrastructure projects, including such based on LCC conditions, are needed to realize the Russian transport strategy up to 2030, primarily in the field of road and railway construction, including the expressways. The difficulties to implement LCCs in Russia are related to the necessity of consolidating projects into regional programs. A new mechanism for joint municipal tenders

should be created in which several municipalities will be able to frame fixed terms of reference, to announce tenders and to choose a common investor, who will each sign in their LCC agreement and will be able to raise funds from domestic or foreign banks. It's very important to use LCCs for the energy efficiency, especially in the housing sector. In this case, the project output consists of the construction (or upgrading) of buildings as well as of building management, safety measures and maintenance. The use of LCCs provides a clear motivation for businesses to create high-quality objects within the shortest possible period of implementation, and to achieve maximum economic efficiency.

It is important to say that with regard to foreign investment and the use of PPP formats in infrastructure projects, there are still some systemic deficiencies in Russia related to tariff regulation under the WTO – sponsored Agreement on Technical Barriers to Trade. This concerns, above all, such topics as: accreditation, inconsistent requirements of existing technical regulations, standardization, conformity assessment, market supervision which has not yet been solved in the framework of the December 12, 2002 Federal Law "On technical regulation". After this Law had come into force on July 1, 2003, the previously valid laws "On Standardization" and "Certification of products and services" were repealed and the existing system of technical regulation radically altered. An attempt was made to create, by analogy with the European Union as our main trade partner, a two-tiered model of technical regulation. The requirements of technical regulations containing the minimum necessary safety requirements would be mandatory, and documents in the field of standardization as "evidence base" for the technical regulations would obtain the status of non-obligatory directives.

This reform need was driven by two objective reasons. First, the principal ability and desire of Russia to participate in international trade on equal terms, and as a consequence, the need to create a modern and efficient economy and WTO accession. WTO membership gives our state a number of advantages, but at the same time, demands to bring national legislation into conformity with WTO rules and norms, as well as with the Agreement on Technical Barriers to Trade. To take this step was essential. Secondly, the modernization of the existing Russian model of technical regulation was due to internal factors. It comes from the inconsistency and awkwardness of the Russian technical regulation system itself, since it was created in Soviet times, when the state was the producer, consumer and the insurer at the same time, it also didn't offer compensation for possible damage to the consumers. Hence, the total discrepancy among the documents in the standardization field needs to be changed in accordance with the requirements of the new market economy and the demands of scientific and technological progress. Moreover there was and unfortunately still is an inefficient system that does not provide state supervision over the safety and quality of products and services in the market, especially when it comes to compliance confirmation. Of course, it's also closely related to the current legislative base in the Russian construction industry which is rather old-fashioned and urgently needs updating.

But the measures which had been adopted by the Russian authorities before 2010 have not yielded the desired result. After its adoption in 2002, the Law "On technical regulation" generally stopped the standardization process in our industry as the law in clause 1, article 46 prohibited federal executive authorities to adopt standards before the introduction of technical regulations. The Ministry of Justice has stopped the registration of the major Building regulations, which had been prepared by Construction Committee (at that time – the Russian Ministry of Construction) in July 2003 as a normative documents, since the new law provided for the "voluntary" use of standards and regulations in construction; the Building regulation, however, has always been obligatory for execution. Since that time eight years have passed and there has been a very long discussion about the technical regulation "On the safety of buildings". Name and content changed, it was decided to both adopt it and let the technical regulation "on the safety of construction materials and products" to stay "alive", then it was changed to merge these two regulations into one, but the assumption held that the "supported" standards are voluntary as in the EU. Thus for integration purposes, conditions will be created to blend both the "New" and "Global (module)" approaches to technical harmonization and standards adopted in the EU. The proof of the earlier right choice for integration with the EU were the decisions of the Commission under the President of Russia on January-20, 2010 in the town of Lipetsk. The need for a harmonization of safety requirements in the regulatory framework has been discussed since 2005 by the experts representing the construction business in a working group for the construction of the Russian and EU Round Table of Industrialists. In that case, the basis was the EU position, which had been under elaboration for 30 years, starting in the 70s, and resulting in the EU Directive 89/106

EEC on the safety of construction materials and products in 1988. The current evidence base of this Directive are the Eurocodes harmonized with this directive. They represent voluntary standards for the design of any buildings and structures in the status of EN standards, where there are cross-references to building materials and products which also have the status of EN standards, with which constructors are now working in EU countries.

This topic is now being very widely discussed in our country; moreover, this year a resolution was adopted by the Russian Government to establish an alternative system of building technical regulations. This decision had become necessary after the Russian President, in accordance with the EU-Russia Summit in December 2009, had taken the unprecedented decision to decree the direct application of international (ISO) and regional (including EN) standards in the framework of the law "On technical regulation" on Russian territory. But at the same time, in December 2009, construction was exempted from the application of the law and is today regulated by technical rules on the safety of buildings, containing a list of mandatory Building Rules, now called "restatement of rules." So now the construction industry is back to the period prior to the enactment of the law "On technical regulation" (2003), and is again regulated only by outdated obligatory Building Rules. To make matters worse, some experts now recommend elevating this system to the level of the Customs Union and the Eurasian Economic Community as a counterweight to the EU technical regulation system for construction, and the elaboration of Technical Rules relating to the construction industry, already at the supranational level. Here the inevitable question arises: what kind of a common economic space are we talking about if we're going to exclude buildings and structures from the Customs Union Agreement, and retain only the regulation of building materials? That is within the customs union; we again take "our" way of integration, and leave aside 40 years of EU experience in this matter, without taking into account the requirements of the WTO Agreement on Technical Barriers to Trade. If that inappropriate method is adopted, time and money to update the Building Rules will again be wasted, and again we'll return to reform square one order to understand what exactly is integration into the international community, and integration with our major trading partner - the EU.

A natural question arises: why is the existing Russian construction regulation so insufficient? The problem is that they haven't been actualized for a long time and they do not boost modern construction technology, new building materials, designs and products. This is reflected in all phases of construction, from design, research, project appraisal, conducting supervision, commissioning, operation and utilization, and it affects pricing and valuation throughout the lifecycle of buildings. The National Association of Russian Builders, created a year ago, is now engaged in updating the Building Rules to meet the requirements of the Eurocodes and international construction standards. The updating job is funded by the state budget in 2010 (108 million rubles) and by contributions from business (at least 50 million rubles). Our position is the following: it should be clear for everybody that the Russian and European systems are two different standardization systems in construction. Eurocodes are an integration mechanism with the common rules of structural design developed by the European Union in order to adopt common safety requirements in structural design for all countries included. We and our colleagues in the European Union regard the Building Rules only as national standards for construction in Russia, and nothing more. They are similar to national standards for construction which have existed and exist in some EU countries until now. The European Union had been determined to switch to the Eurocodes by July 2010, removing the national standards for construction of the treatment, but it has now extended their validity up to 2015.

But Russian officials persistently defend their national building norms. We were unable to tell them that the basic difference between EU documents on structural designing (Euro codes) and their national equivalent is that Euro codes contain only functional safety requirements and there are no requirements on the application of this or that building technology. The manufacturer can develop it by him, but it is important to heed safety requirements which are laid down in Euro codes. This is why in the process of checking the compliance with safety requirements stated in the Directive 89/106 concerning products and services delivered by manufacturers authorized bodies of compliance evaluation must participate. This is still not provided by our law on technical regulation and by the Concept on accreditation which was approved by the Government of Russian Federation in November, 2010.

Thus it is necessary to consider that standardization in the European Union hasn't stopped for one day and throughout 30 years about once in two-three years material and design standards are revised, and

substantially changed, but the structure of Euro codes, their orientation toward integration remains stable. Russia stopped to financing basic and applied science, including building sciences, since the 1990s. The European Commission and the Technical Committee (TC 250) of the European standardization bodies (CEN) expect us to join the process of introducing Euro codes in Russia, and to propose our national options, this has not happened yet. The IRT work group considers that it is necessary to create a group of experts with the mandatory inclusion of European experts to develop our national options for Euro codes taking into account distinct Russian features and to coordinate them in CEN TC 250. A good model for this approach is the transfer of Euro codes to Belarus where after such work, government had accepted Euro codes and legitimized them on its territory last year.

Why should European and international standards become a priority? Because we have lagged in the field of fundamental and applied sciences concerning buildings, complex safety, high-rise buildings, power efficiency, high-speed automobile and railways. Experts of our work group on IRT building aren't discussing the question of whether Building Rules are good or bad. They were created a long time ago, and more than a thousand scientific research institutes of the Soviet period took part in their elaboration, and for the "Soviet" time they were extremely topical and necessary for the State which was relying on an administrative command system of technical regulation and a planned, instead of a market economy. However, today it is necessary for our Russian building business to study and accept an integration system for EU rules of structural design for the sake of our competitiveness in the Russian market and for being competitive after Russia's accession to the World Trade Organization. As a matter of fact, any constructor of any EU country today can work under these requirements on the whole territory of the Union, where Euro codes operate, and this creates a healthy competitive environment in the market.

Therefore the settlement of this question has enormous value for the attraction of foreign investment, including in our market. All modern objects which are already constructed or are under construction in Russia with the participation of foreign companies, are built under the international ISO and European standards. But building regulations are creating additional inevitable barriers through their obligatory requirements which force foreign experts to adapt the European and international requirements of standards to the mandatory Russian conditions of building regulations and Soviet-time state standards. That means these requirements date from the last century, and that spells disaster for coordination in project expertise, and for startup. Inevitably, this generates rising costs. Therefore we've discussed this theme for a long time with EU building business and in 2005, we have signed «the White book» in Paris where we have stated and argued the necessity to approximate the standard documents of Russia and the EU. This book is placed on the web site of the Russian Builders Association, and all problems highlighted there haven't lost their urgency until this day.

The EU was then ready to conduct work with our country within the under the auspices of European Commission and the EU body of standardization (CEN). Not only European, but also Russian business is interested in this. Today it is common sense in Russia that our country trails behind in the use of high-end building technologies. For example, in Europe high-speed railways with a velocity up to 400 km/h have been in operation already 25 years. In Russia, such a high-speed track will be finished only by 2015, according to the relevant Decree of the President of Russia accepted in this year. The same concerns high-speed highways, and many other things. That's why it is necessary to introduce Euro codes and accept them as national Russian standards. If we are going to insist that it is necessary to update building regulations we will slow down the introduction of new technologies, and new materials. I repeat one more time, European standards already imply the potential to deploy new building technologies, materials, designs and products, while with building regulations there is no such possibility. This is why an alternative system of technical building regulations is necessary.

In case such a system of the implementation of standards harmonized with EU Directives is set up, it will solve not only the problem of the translation of standards for structural design, the Euro codes (10 volumes including national annexes), but also that of other standards on building materials and products which have the status of EU standards (EN). In total, together with ISO standards concerning buildings, they number more than 2500. If we are to successfully realize this objective it will entail the inevitable and gradual advance of the Russian building branch to the European level of development which for us is a matter of principle and extremely promising. On the other hand, the results of this venture will provide the opportunity to work with concessions and life cycle contracts also for European companies and organizations: For

the first time this will open the possibility to European investors and insurance companies to invest legally in infrastructural projects with clear rules aimed at safety and quality. Besides, realizing these targets will permit the early introduction of EU training programs for domestic designers and Russian government supervising bodies.

I consider that actions in this direction will underpin the uniform economic area of Russia and the EU, create conditions to remove obstacles for a normal investment and building activity of Russian and EU enterprises, carried out both on Russian territory, and on the territory of EU countries. Therefore, in 2008 in Cannes the basic provisions of the resolution of a joint meeting held under the auspices of the above-mentioned IRT working group have defined the necessity to orientate the elaboration of standard documents on building in Russia toward EU New and Global approaches. On the eve of the June summit Russia-EU in Novochoerkassk in 2010, the Russian-European design forum on issues devoted to normative standards in building, public-private partnership (PPP), energy conservation and the development of transport infrastructure was held under the auspices of IRT. The resulting document of this meeting has been submitted to the Government of Russia and European Commission to frame concrete decisions. Conceptual positions of the final document of this forum are:

- the use of the European technical standards will promote modernization and the competitiveness of the Russian economy;
- PPP is the most likely and feasible tool to support technological cooperation projects in business slots requiring considerable volumes of long-term capital investments. The successful construction of a high-speed railway «Moscow - St.-Petersburg» will also establish the legal basis for LCC usage in Russia;
- energy conservation and transport infrastructure development are the key directions in the cooperation of Russian and European companies. Their support will generate the systemic effect of modernizing the Russian economy. It is necessary to draw up a list of the most important cooperation projects in those spheres and to present regular reports about their performance to the Russia-EU summits.

During its Helsinki meeting on 22 October, 2010, the Russia-EU IRT working group on building discussed questions of the application of LCCs and the implementation of European standards in building in Russia and has referred to concrete examples of business projects. That's why the resulting document containing IRT recommendations issued on the eve of the EU-Russia Summit of December, 2010 suggested to consider and approve three high-priority concrete political initiatives:

- An EU? Russia initiative to broaden up cooperation in standardization
- An intellectual property rights enforcement initiative
- An initiative for a modern travel regime

These initiatives are capable of making important contributions to success of the Partnership for Modernization. The IRT recommendations have highlighted the initiative defined in item 2.1. on the expansion of cooperation in the sphere of technical standards (IRT recommendations to the Russian-European Summit, Brussels on December, 7th, 2010)

The work on the implementation of international and European norms in building acquires specific significance in the context of integration processes occurring on the post-soviet territory (the Customs Union, The Eurasian Economic Community (EAEC or EurAsEC, the CIS).

The agreement of 24 March, 2005 on the principles of the harmonization of technical regulations adopted by the EAEC member states and the draft agreement on uniform rules and principles of technical regulation in the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation don't provide for the application of widely-used Russian building regulations on an obligatory basis. Nevertheless the Ministry of Regional Development of the Russian Federation, the Ministry of Industry and Trade, Rosstandart, the Russian Union of Industrialists and Entrepreneurs' Committee on technical regulation, standardization and certification of compliance, and especially the National association of self-regulating construction organizations don't share such an approach. These respectable organizations consider that construction has special features distinguishing it from other industries. Therefore such a product as buildings and construction should be regulated on national level by means of the obligatory usage of building regulations.

In contrast, such products as building materials can be regulated in analogy to the New approach, by setting common principles in the framework of the Customs Union and EAEC.

In the framework of sessions held by Russian Union of Industrialists and Entrepreneurs' Committee on technical regulation, standardization and certification of compliance, proposals were repeatedly made to exclude buildings and constructions from the draft agreement on common principles and rules of technical regulation of the Customs Union members. The Builders Association of Russia and the Railway Constructors Union had been and still are against these proposals on the grounds that in case buildings and constructions are exempt from the Agreement this would lead to regulations for the building branch according to different principles and approaches. This contradicts the Directive 89/106, defining safety requirements, both in reference to buildings, constructions, and to building materials and products.

Such a step will imply that the technical regulation concerning buildings and construction where standardization documents are obligatory, will be carried out on the basis of the EU Old approach, while technical regulations concerning building materials, products and construction which fall under the draft Agreement of the Customs Union members, will take into account the basic principles of the New approach. Such a distinction is justified, according to the opinion of some Russian experts and officials, by the fact that only building materials, products and constructions are capable to cross the border and to circulate in markets. Therefore a necessity to eliminate technical barriers exists only in the specified area in order to support free trade.

However, it is necessary to consider that except building materials and products, technologies of building, various projects involving foreign investment, builders and designers directly cross borders as well, should enjoy, in the framework of the planned common free market zone, the possibility to work in any country of the Customs Union. Moreover, in a literal sense, there are mobile appliances, capable of crossing borders (for example, the offshore equipment used by the oil and gas complex). It is equally important that according to technical regulations passed by our partner in the Customs Union, the Republic of Belarus which realizes the principles of the new approach in the sphere of construction, that both building materials, products, and buildings and constructions are subject to market circulation.

We are for the development of technical regulations within the Customs Union according to the WTO rules and taking into account the New and Global approaches accepted in the European Union. On the one hand it will allow the preparation of our construction branch for the coming accession of Russia to the World Trade Organization and to provide a reliable foundation for the future cooperation with the European Union, and, on the other hand, this will boost modernization and an innovative development of Russia's construction branch. For the realization of these objectives it is reasonable to sign the agreements between the Customs Union, the EAEC and the EU, and also partnership agreements of the Customs Union and EAEC with the European standardization organization (CEN) providing the harmonization of legislation in the sphere of technical regulation and certification of compliance taking into account the recommendations of the Economic Commission for Europe (UNECE or ECE). Considering that the contemporary EU system of technical regulation is the most effective model of international cooperation, it is necessary to take a comprehensive approach towards the problem of introducing the New and Global principles in Russia, because the present partial implementation of these principles violates their integrity and promotes elimination of technical barriers to a much smaller degree.

We are convinced that this form of civilized assertion of business interests is a form of classical professional opposition to those initiatives which are advanced by the RF Government, the European Commission, the Commissions of the Customs Union, EAEC and the CIS. We perceive it as a way of the search for truth in the mutual relations of business, state and unions of states. Therefore it is necessary that business be included in the framing or elaboration process of the new text of Russian agreements. Consultations with business must be a part not only of the negotiating process, but also a part of agreements. Any question must be solved on the basis of such a constant dialogue between business, the European Commission, the commissions of the Customs union commission and the Russian leaders.

For example, it is the extremely important for the Russian building business to know: what consequences we will have to face if we become members of the WTO at the end of this year? What requirements will the future agreement between the EU and Russia contain? For business, especially for the construction industry,

the most important consequence is a tangible improvement of the investment climate of Russia. It is necessary to create conditions for investment in Russia on the basis of legally authorized PPPs (concessions, LCC) at the different administrative levels of budgetary appropriations (federal, regional, municipal) through which infrastructural projects are funded for a time period of 25 years as provided by the development programs of the Russian Federation and the EU. For us, it is important to participate in the process of harmonizing European and Russian corporate and banking legislation, taking into account that Russian companies reach out to the world markets, not only with their own produce, but also with capital, acquiring assets and creating transnational companies. It is understood that Russian transnational companies must grow from Russia, and not from other legal systems. The exit from Russian jurisdiction deprives Russian authorities of the possibility to control the property issue. The legal infrastructure of Russian capital must share all important features with the same products in the EU countries. This relates to technologies as well as to the protection of property rights, including the judicial system.

We consider it necessary to conduct common conferences after the conditions for joining the WTO have been published. They should address the themes «Russia and the WTO», «Russia and the Customs union», «Russia and the Agreement with the EU» and should pursue the objective to disseminate the knowledge necessary for a civilized business conduct under the conditions of WTO membership in order to support the formation of a sustainable business climate. International agreements and legal obligations take precedence over national legislation, but 80 % of Russian CEOs have no idea about the norms of WTO, EU and Customs Union and their implementation in foreign markets. Such action is already required.

Today Russian and foreign businessmen have the possibility to appeal to the WTO norms and rules in court, because this right is already provided or will be provided in the international agreements concluded by our country. Holding conferences in the framework of IRT branch working groups, including the Vienna Process, should become an effective tool; as well as launching accessible Internet resources which would provide information to business representatives about WTO, its operative mechanisms, the WTO antidumping tribunal and its procedures. This is also extremely important because Russia practically is not present in the work of technical standardization committees of relevant international bodies, and does not take part in the work of international and European accreditation bodies. This has grievous consequences for our business: The compliance certificates for its products are honored neither abroad nor in Russia.

I think that the same relationship should prevail at the present stage of our relations with the European Union where the preparation of the negotiating process for the new basic agreement is under way. There is consensus among contracting parties that this contract will be legally obliging, comprehensive, and long-term, and that it should be accompanied by specific agreements which will substantiate the principles laid down by the agreement. It will replace the Partnership and Cooperation Agreement, that's why it is important, that the discussion on government procurement will have to pursue the objective of extending the possibility for Russian business to participate fully in EU tenders concerning government purchases, and full access to the Russian tender system for European business. It is also important that the Russian – EU dialogue on regulation be directed on working out uniform and mutually compatible standards, norms, procedures of compliance certification. Such work will eliminate many barriers in the way of Russian goods to the EU and vice versa. This said, we can state that business has already learned to agree and to compromise much more effectively and faster, than politicians and participants of Regulatory dialogue. They will have to take into account the consolidated recommendations of two and more business parties to governments as soon as possible. «The White Book» for building, passed in 2005 in the framework of the Russia-EU RTI is an instructive example: the Government of Russia has only taken notice of it in 2010.

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WTO accession: a chance to revitalize competition in Russia

There is currently much discussion going on regarding Russia's accession to the WTO and the potential positive implications for the Russian economy. Direct benefits include market access for international firms, increased trade, rising FDI are all factors that could directly contribute to the rise in GDP and stimulate general welfare gains. There is another important issue that could be determinative for the overall development of the modern market economy – the increased level of competition.

Despite the recent efforts to enhance domestic level of competition and promote economic diversification, Russia is suffering from the Dutch disease as much as ever. Generally promoted by the government, overreliance on the export of energy and raw materials has established a status-quo where there is no apparent necessity to enhance competition and develop high value added industries. As the transition to the market economy has finalized, it became evident that Russia has failed to build an internationally competitive diverse economy. Domestic competition is hindered by the dominance of quasi-sovereign export-oriented firms in the composition of the GDP as well as a high level of protectionism in manufacturing and consumer sectors. Over-amplified attention around the rare initiatives of the project-based special economic zones, such as Skolkovo, is only indicative of the low emphasis that is currently being put on promotion of innovative and competitive economic tendencies alternative to raw materials.

The key obstacles to competition in Russia are well known and have been gradually growing over the years. The most apparent feature of economic activity in Russia is the presence of state-owned corporations as well as a small number of large state-supported firms operating in the most profitable industries of strategic importance. For instance, 80% of oil production is contributed by the top 5 firms that operate in monopolized regional wholesale markets. Furthermore, a high level of protectionism in an economy concentrated on exports of raw materials prevents the development of innovative industries and competition enhancement. The second feature, very tightly related to protectionism is high barriers to entry in most industries, both financial and administrative in nature. In addition to the high cost of setting up a business, incumbent firms enjoy support from the government and can successfully exert their market power. Finally, excess concentration, vertical integration and geographical segmentation of firms in Russia are all features of a competitively poor economic environment. Institutional weaknesses such as low transparency and accountability, a high level of corruption, an unclear legal system and weak property rights contribute to the inability of new and independent players to successfully compete with the established incumbents.

There is an overwhelming amount of explicit evidence that the current framework of the Russian economy is based on concentration and leadership preservation through informal practices, exerting market power and manipulating the ambiguous legal system. In particular, Yusupova (2009), reports that most industries in Russia are operating under the latter economic model and are very far from being competitive. The most recent economic crisis has amplified the problem of falling competition levels. Even the firms with pre-crisis positive trends saw these trends revert following the financial turmoil. Mobile operators, alcohol and tobacco producers are found to be among the most troubled industries competitively.

or international competitors. Moreover, most noticeably in the metallurgy, machinery and consumer oriented industries, respondents reported that they are seeing a decline in competition. Falling number of firms as well as the rising proportional contribution to GDP by a few of the largest firms clearly signifies the ability to exert substantial market power and subsequently low competition levels.

Competition in the banking industry deserves special attention as it provides an indication of the availability of financing and hence ability for firms to grow. At the first glance the banking sector in Russia seems quite competitive with over 1000 distinct entities operating in Russia. Nevertheless, the highly fragmented nature of the sector has more to do with low barriers to entry and consequently an unprecedented bank opening outburst during the transition period. In fact, most competition metrics provide substantial evidence that the banking sector in Russia is much less competitive than the developed world and BRIC peers (Anzoategui et al, 2009). In particular competition is obstructed by uneven supervisory practices and unclear exit process. Quasi-sovereign and large-scale banks enjoy much higher market power, which was further amplified after the financial crisis of 2007. The rise in capital requirements inarguably made smaller and privately owned banks worse-off compared to their larger or state-owned competitors. After-crisis developments in the banking sector clearly show a declining trend in level of competition.

Evidently most industries in Russia are dominated by a small number of large firms, with high monopoly power and state support, which obstructs competition. Given that the situation cannot be rapidly corrected within the system, even in the presence of de-monopolization reforms and protracted institutional changes, the most plausible improvement can only result from rising foreign competition and international expertise inflow. However, due to low investor confidence, high barriers to entry for foreign firms as well as an unclear business environment there is only a limited number of international firms operating in Russia. Arguably, Russia's accession to WTO could act as a catalyst necessary to boost domestic competition. There is undoubtedly unsatisfied appetite for Russia from abroad with the untapped markets, resources and business opportunities. Russia's WTO commitments will significantly facilitate financial inflows as well as firm's entry to the economy as a result of the modified ownership framework.

Accession to WTO will primarily result in higher direct market access for foreign companies as well as the lowering of tariffs by almost a half to an average of 8% across the industries. As a result it is expected that Russia will become much more attractive for Foreign Direct Investments and the overall level of competition will benefit from the rising number of foreign firms operating in the Russian market through their resources and expertise. However, realistic expectations regarding the business entry period and adjustment time dictate that there will be little real impact in the medium term. Most benefits in the short-term will be sentiment and anticipation related, as the rising investor confidence will lead to an increase in the capital inflow. Therefore, the chances that accession to the WTO will result in an immediate gain to rising competition in Russia are quite slim.

There are a number of changes that Russia has committed to upon the accession to WTO that could potentially lead to improved domestic competition. For instance, the pledge to break down RosTelecom with its monopoly on fixed lines and allow 100% foreign ownership of any telecom companies could change the face of the industry. With the telecoms sector being one of the least competitive in Russia, this presents a great opportunity for the established European players to boost the market by bringing the most innovative solutions and practices. Operating amongst other services and consumer goods sectors telecoms could see a significant increase in M&A activity, creating new synergies and improving both domestic and international competitiveness of the Russian products. Pepsi's recent acquisition of Wimm-Bill-Dann (largest in consumer sector) is a good illustration of such projection.

In addition to a positive impact on consumer sectors, there is a lot of hope that foreign expertise will revitalize the manufacturing industry. The latter has enjoyed strong protection from international competition and as a result has failed to progress, remaining at the same level of technological advancement as it was during the soviet period. For example the car industry could potentially be transformed into a globally competitive player with Renault and Daimler leading the way with the commitments to bring their know-how to Russia in case WTO accession goes through. Currently, domestic manufacturers survive on up to 50% tariffs on imported cars, with Avtovaz dominating the at a 29% market share. With the abolishment of the tariffs, domestic producers will struggle to compete with better quality cars offered by international competitors. Some will be driven out of the market or acquired, which will of course lead to improved competition and quality of products offered on domestic markets. It is likely that consumers will benefit from increased competition in the manufactured products sectors. This of course will come at the expense

of the domestic car makers being driven out of business.

The financial sector is named among the industries that will experience the most rapid and substantial transformations as a result of the WTO accession. In particular, as the 100% ownership of non-life insurance firms, banks and other financial entities will be allowed, some estimate that the proportion of total financial assets owned by foreign establishments will rise from 15% to 50% (Tarr, 2009). As more mature foreign banks with substantial financing resources will enter the industry they will be able to compete with the domestic market leaders, unlike the smaller Russian incumbents. A rising level of competition is likely to result in lower interest rates and will put significant pressure on profit margins. Moreover, as smaller banks will be unable to operate in a more competitive environment with the ever-increasing capital adequacy requirements, there is a high plausibility of growing M&A activity and the subsequent rapid consolidation in the industry. There is thus a lot of hope that the inflow of international competition will result in a more mature, consolidated and competitive banking sector.

There is however, one slight obstacle that will certainly delay these processes. Russia has not accepted branch banking as part of the WTO accession commitments, under the pretence of regulatory complications. Consequently, foreign banks, operating in Russia will have to establish Russian regulated subsidiaries with separate balance sheets. This will substantially complicate the process of accessing firm-wide capital resources, increase the cost of entry and thus present a significant obstacle for FDIs. On the other hand, a subsidiary based model will allow Russian banks to gradually adjust to a more competitive environment and hence minimize their costs and maintain customer base in the medium term. It is therefore rather unclear whether the absence of branch banking will allow the competition level to rise quickly.

It is quite evident that accession to the WTO and the subsequent multilateral trade commitments will act as vital catalyst to improved competition in Russia, especially in the manufacturing, consumer goods and banking sectors. Nevertheless, it is important to bear in mind that there are other prerequisites to achieving the full potential gains from competition. In particular, the government should ensure that foreign producers that decide to enter the Russian markets as well as international investors can operate in efficient markets with high level of transparency and protection. There is thus a severe need to substantiate the WTO accession with further economic reforms directed at creating clean business environment and legal system as well as straight-forward and enforceable property rights. It is integral to assure that businesses are protected by law and that formal procedures are put in place. Finally, the fight against corruption and strengthening of democratic institutions should take a more explicit form. But this is of course a wholly different story.

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Central Asia and the WTO

With the ongoing discussion about the possibility of WTO accession for the Russian Federation, this contribution will focus on the Central Asian states and their approach to WTO membership. The countries of the region couldn't be more different concerning WTO, starting with the Kyrgyz Republic, which has been a member of the organization for more than twelve years, to Kazakhstan, Uzbekistan and Tajikistan, countries which are standing at different points of their accession process and finally the isolated Turkmenistan, one of very few countries in the world which hasn't even applied for accession yet.

The Kyrgyz Republic was the first among the successor states of the Soviet Union to join the WTO in 1998. Due to the strong willingness of the government to bring its economy and trade policy in-line with WTO standards, the smooth negotiation process took just about two years, giving the country the reputation as the "Rapid Reformer of the Region".¹ However, the high expectations of the accession were proven to be far-fetched. The expectation of an increasing flow of trade and investments did not materialize.

On the contrary FDI, imports and exports reduced quite considerably in the post-accession period (mainly due to the Russian crisis in 1998), showing that the WTO accession was only of secondary importance for these economic developments. Moreover, the landlocked mountainous position of the country (costs of accessing world markets are high) and the fact that none of its neighboring countries were WTO members, contributed greatly towards the difficult economic situation.² However the country's early WTO accession caused no harm. The Kyrgyz experience indicated the importance of coherence between trade policy and domestic policy reform. "Without domestic policy reform, WTO accession is difficult".³ Finally, the country certainly would profit from the upcoming membership of Russia and other Central Asian states, as the WTO rules would start to apply to trade with the most important partners. Furthermore Kyrgyzstan, as the first member of the region, could use its bargaining-power at the accession of other countries.

As the hopes tied to the Kyrgyz WTO accession failed to materialize, the opponents of a fast Kazakh accession had another reason not to join the path of its southern neighbor towards an expeditious membership. The country applied as well in 1996, the Working Party was established and one year later bilateral market access negotiations with member states started. However with the crisis of the Russian economy in 1998 and its strong impacts on Kazakhstan, the process slowed down. From 2001 on, the negotiations revitalized for some years and bilateral agreements with some WTO members were signed.⁴ However, in June 2009 the Working Party process was "suspended" with the announcement that the country would form a Customs Union with Belarus and the Russian Federation, seeking a joint membership. To avoid another long-lasting setback, Russia submitted an Informal Note describing the customs regime, on behalf of the three members of the Customs Union. Moreover, the three delegations indicated that they would coordinate their accessions, while keeping the format of their individual Working Parties.⁵ Currently the country is more engaged with bringing the accession process to an end, the Working Party has held ten meetings since it was launched. In his annual presentation about WTO accession, Director-General Pascal Lamy named Kazakhstan in a small group of countries with intensified engagement and significant progress concerning accession. In the same breath he expected a number of countries to bring negotiations to a successful end in 2011.⁶

¹ Pomfret, Richard: *The Central Asian economies since independence*. Princeton, 2006.

² Mogilevsky, Roman: *Role of Multilateral and Regional Trade Disciplines: Kyrgyzstan's Experience*. Warsaw, 2004.

³ Pomfret, Richard: *Lessons from Kyrgyzstan's WTO Experience for Kazakhstan, Tajikistan and Uzbekistan*. In: *Asia Pacific Trade and Investment Review*. Vol.3, No.2, December 2007.

⁴ *Ibid.*

⁵ *WTO Accessions, 2010 Annual Report by the Director-General* (http://docsonline.wto.org/GEN_highLightParent.asp...)

⁶ Pascal Lamy presentation of 2010 Report on accession, 14. December 2010. (http://www.wto.org/audio/2010_12_14_gc_lamy_acc.mp3)

The Uzbek accession process is by far the most sluggish compared to its neighbors. The WTO received the application in 1994 in the same year the Working Party was established, as the first country of the Central Asian region. However, the period of substantial reforms of the Uzbek economy lasted till 1996 and was followed by the reintroduction of rigid exchange controls. Similar to Kazakhstan at the end of the nineties, Uzbekistan was unwilling to accept WTO rules, which let the accession negotiations being put on hold. It was in 2002 when the first meeting of the Working Party took place⁷, two further meetings were conducted until 2005 and bilateral negotiations with WTO members began. But since then little progress has been made and according to the annual Report by the Director-General on WTO accession, the next Working Party meeting will be assembled when the outstanding inputs are submitted by the Uzbek side and a Working Party Chairperson is appointed.⁸

The latest applicant of the Central Asia states was Tajikistan in 2001, but obviously the negotiation process is already further advanced than Uzbekistan's. Recently, at the last of the overall five Working Party meetings which were held, the WTO members welcomed Tajikistan's efforts and progress in accelerating its membership negotiations and reforming its trade regime in order to be fully compatible with WTO rules. The country has now signed a bilateral agreement on market access for goods and services with China and is in negotiations with fifteen other members. The Minister of Economic Development and Trade of Tajikistan Mr. Farrukh M. Hamraliev stated that "the accession to the WTO is the main national priority and the government is grateful to all Members for their co-operation and support".⁹

The absence and indifference of Turkmenistan shows that the country is now ready for trade or domestic policy reforms. In the long-term the isolation from global trade flows means regression and a huge loss of development opportunities.

The membership of all Central Asian states alongside Russia would have positive implications on the business environment in the whole region, compared with the status quo. "The most important benefit of membership would be to place all Central Asian trade on a common basis of international trade law, and potentially to separate trade from politics. The failure of a myriad preferential trading agreements [...] are not a practical route to realize greater gains from trade."¹⁰

Currently the inter-regional trade is mainly ruled by bilateral agreements and the low effectiveness of the regional economic organizations is obvious. A joint WTO membership would be a first step for deeper economic integration, due to the network benefits on a ruled-based trading system and the framework for dispute resolution for intra-regional trade. In landlocked Central Asia the costs of accessing world markets are high, which implies a great importance of open regional markets especially for small and aid-dependent countries like Kyrgyzstan and Tajikistan, where foreign trade is absolutely essential. Regional cooperation is vital as they are highly dependent on the energy and water sector.

Every single market of the five Central Asian economies is for itself rather small and not highly developed, and therefore elicits only limited interests for investments (apart from Kazakhstan's hydrocarbons and very few other sectors).¹¹ WTO accession would generate trade flows and FDI, as together they would compose a sizable market with around 60 million consumers.

Finally, the countries would benefit from the Most Favored Nation (MFN) status when trading with other WTO members and they would have a seat at the WTO negotiation table, which could be of high relevance for Central Asian countries (Kazakhstan was affected by anti-dumping duties on its steel exports, Uzbekistan and Tajikistan suffered from cotton policies of WTO members).¹²

⁷ Pomfret, Richard: The Central Asian economies since independence. Princeton, 2006.

⁸ WTO Accessions, 2010 Annual Report by the Director-General.

⁹ WTO: 2010 News items. 24.November 2010: Tajikistan accelerates its membership negotiations. (http://www.wto.org/english/news_e/news10_e/acc_tjk_24nov10_e.htm).

¹⁰ Pomfret, Richard: The Central Asian economies since independence. Princeton, 2006.

¹¹ Mogilevsky, Roman: Role of Multilateral and Regional Trade Disciplines: Kyrgyzstan's Experience. Warsaw, 2004.

¹² Pomfret, Richard: Lessons from Kyrgyzstan's WTO Experience for Kazakhstan, Tajikistan and Uzbekistan. In: Asia_Pacific Trade and Investment Review. Vol.3, No.2, December 2007

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Law enforcement in Russia and WTO accession

The issue of corruption has many aspects. Its relevance for Russia's WTO accession stems from the fact that Western leaders have serious concerns regarding the status of the fight against corruption in Russia. Russia, however, considers corruption as an internal problem and this can mean two things: Firstly, Russian national security, especially in the economic sphere, is paramount. Secondly, Russian leaders want the successful continuation of market reforms. However, it is obvious that short of a successful anti-corruption campaign, it is impossible to achieve any development of the domestic economy, including the establishment of a viable legal system of market relations.

Today, corruption has become the main factor limiting competition and access for citizens and businesses to resources. Its dimensions have achieved catastrophic parameters in Russia. Therefore, the state and its institutions, including public prosecutors, other law warranting and enforcement agencies must develop and implement a system of measures. This system would be protect civil society and domestic business from the phenomena of bribery, protectionism and the extension of privileges and benefits to select business circles by persons authorized to perform certain administrative, organizational or management functions in government or municipal services at all levels.

A special role in combating corruption, of course, belongs to legal regulation, the use of legal and institutional tools. In this respect, there is still much to be done in Russia. The steps taken to this point were quite controversial and far from consistent. Two things should be mentioned here. Firstly, for fifteen years the legislature has not been able to pass a special law on combating corruption (several drafts have been presented which failed to be passed). Secondly, there have been unabashed attempts at creating legislative relief for corrupt individuals, such as amendments to the Penal Code, adopted in December 2003 to the effect that the institution of confiscation was abolished, and the penalty of imprisonment was replaced by the payment of fines for some types of economic crimes. Only external factors, namely Russia's ratification of important conventions (Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, Convention against Transnational Organized Crime, etc.) - have forced legislators to address the theme of corruption forcefully and seriously.

In particular, under the influence of international obligations, legislators were forced to reinstate confiscation as Russian criminal law. This happened after the State Duma of the Federal Assembly, at a plenary meeting on 17 February 2006, adopted the law "On the ratification of the United Nations Convention against Corruption." The Convention was signed on behalf of Russia on Dec. 9, 2003 in Mexico. The document lists a wide range of measures to prevent corruption in public service and the private sector. Among such measures, the Convention requires that assets from acts of corruption be returned to the country of origin, using civil and administrative rather than just the criminal procedural mechanisms. The Convention regulates in detail mutual legal assistance in the fight against corruption, the extradition of perpetrators of crimes of corruption, and cooperation in law enforcement, including exchange of information and experience, joint investigations, training of specialists in the field of law enforcement, cooperation in material and technical support, etc.

However, in countering the threat of such a system of corruption it is impossible to focus only on some action (especially under the possibility that anti-corruption law enforcement institutions might be corrupt as well). Their action is limited and therefore can not be totally socially efficient. Corruption should be viewed as a form of illegal rent-seeking behavior and non-institutional forms of exchange relations, distribution and appropriation of economic benefits. Given the existence of such a nature of this phenomenon, resistance to it can not and should not be limited to the methods of criminal repression, administrative and civil law

measures. It is imperative to achieve a systemic impact on the conditions and reasons for determination of corruption as a social phenomenon. It is important to connect the understanding of the economic and social background and content of corruption with the tasks of law enforcement impacts and correct the one-sided and flawed traditional approaches.

The potential entry of Russia into the WTO implies a systemic change for the corrupt environment in the country and can create more favorable conditions for anti-corruption actions. The increased presence in Russia of foreign business and an increase in the intensity of competition in the long term as a whole should not result in a “who is ready to pay more for the judge or clerk” competition, but in the emergence of an environment in which the general understanding is that giving bribes is unprofitable, and for those who prefer bribes to fair competition criminal prosecution will be the consequence.

Even so, corruption in today's Russia is an effective self-replicating mechanism hard-wired into the economy and the state apparatus. Therefore, this mechanism may as well stand up to those factors that are threatening it, and adapt to them, not only without much damage, but even with new benefits. On the other hand, “transparent economic policies are vital for foreign investors, and there are several reasons. The first reason is that non-transparency imposes additional costs on businesses. These additional costs arise as firms have to tackle the lack of information that should have been provided by the appropriate government department in the implementation of its policies and in the activities of government institutions” (Drabek 2001).

It is clear that WTO accession is not an immediate solution to the problem of corruption in Russia, but her inclusion and the harmonization of the Russian law with WTO norms will contribute to improving the FDI attractiveness of the country and will contribute to the creation of a competitive environment. Such an enabling environment is apt to increase the transparency of the Russian state in the long run.