



JOINT STATEMENT

21 February 2008

BUSINESSEUROPE-RSP PROPOSALS FOR A NEW EU-RUSSIA TRADE AND INVESTMENT AGREEMENT

Summary

Business firmly believes that it is in the mutual interest of the EU and Russia to move toward a more integrated EU-Russia economic relationship based on WTO membership and equal partnership. This joint view outlines a business vision for the framework of a new agreement between the EU and the Russian Federation.

Ambitious Objectives for Economic Integration

European and Russian business are convinced that Russian accession to the WTO and an ambitious conclusion to the Doha Development Agenda will further enhance and strengthen the multilateral trading system. Russia is the last major trading nation outside the rules-based, global trade system and its WTO membership will provide stability for both Russian and EU companies involved in trade and cross-border investment.

However, deepening EU-Russia economic relations requires negotiations on a wide set of issues beyond the current mandate of the WTO. Consequently, the EU and the Russian Federation should start negotiations on a WTO+ bilateral agreement on trade and investment. The underlying criteria for this agreement should be that it is based on economic criteria, on reciprocity and it should involve the broadest product coverage possible both in goods and services, and promote cross-border investments based on national treatment. With this in mind the agreement should include the following key elements:

- Talks on trade in **goods** should liberalise substantially all trade without a priori exclusions.
- **Non-tariff barriers** should be effectively tackled, starting with a standstill for all new barriers as of the start of negotiations.
- Negotiations on **services** should cover all sectors and modes of supply and be based on a negative list.
- Negotiations on **cross-border investments** must be based on national treatment and a negative list of exemptions, building on but also honouring existing bilateral agreements.
- **Mechanisms supporting foreign direct investments** should be promoted in projects of mutual interest.
- **Intellectual property** rules are crucial and signing up to all major international conventions and robust enforcement regimes are a minimum.

- Negotiations must address **regulatory barriers**, setting a course towards regulatory convergence - around transparent, predictable, proportionate and fact-based regulation and international approaches to standards.
- As companies should be able to compete with each other on a level playing-field, relevant **competition policy** elements must be included in the agreement.
- The negotiations should be based on the disciplines of the WTO **Government Procurement** Agreement, but given the complex system of exemptions it contains, the EU-Russia agreement should include further disciplines as well.
- Though the WTO is the trade **rule-making** body par excellence, the EU-Russia bilateral negotiations should also be a tool to ensure best practices in trade policy implementation, particularly in **trade facilitation and bilateral customs cooperation**.
- A new agreement will only be valuable to growth and competitiveness if it includes binding and effective **dispute settlement and mediation mechanisms**.

Effective **consultation mechanisms** should also be established to facilitate **cooperation between the business communities, the Russian government and the EU** on industrial policy and investment promotion. The consultation mechanisms should be operational during negotiations on the issues under discussion and during the implementation of the Agreement on the whole range of issues affecting the interests of the business communities.



21 February 2008

BUSINESSEUROPE-RSPP PROPOSALS FOR A NEW EU-RUSSIA TRADE AND INVESTMENT AGREEMENT

BUSINESSEUROPE – the Confederation of European Business – and RSPP – the Russian Union of Industrialists and Entrepreneurs – call for deeper EU-Russia economic integration. Both organisations strongly support the forthcoming Russian accession to the WTO, the roadmap to implement the EU-Russia Common Economic Space and start of negotiations on an agreement guaranteeing free trade and national treatment of cross-border investment.

Business firmly believes that it is in the mutual interest of the EU and Russia to move toward a more integrated EU-Russia economic relationship based on WTO membership and equal partnership. This joint view outlines a business vision for the framework of a trade and investment agreement between the EU and the Russian Federation.

Concluding WTO Accession Negotiations

Russia is the last major trade power outside of the WTO rules-based international trading system. In addition, WTO accession is the cornerstone for negotiations on the new EU-Russia trade and investment agreement. Now that Russia's WTO accession negotiations have reached their final phase the European and Russian business call on a real push to resolve the last issues on the agenda rapidly.

Launching ambitious negotiations

The EU and Russia have a broad agenda of political, economic, security and cultural cooperation issues to address over the coming years. However, business believes that each set of issues should be considered in the appropriate framework and time frame. Consequently, negotiations for an agreement on economic cooperation should be dealt with separately to other considerations. The rapid conclusion of an ambitious bilateral trade and investment agreement may be held back if negotiations are burdened with wider political negotiations. The trade and investment accord should be based on economic criteria and commercial questions must remain at the centre of the negotiations

As the leading supporters of the new economic agreement, business calls on the EU and the Russian Federation to elaborate the objectives of a future agreement in close consultation with relevant business organisations and representatives to ensure that all barriers faced by the EU and Russian companies receive adequate and fair treatment. During the course of negotiations, there is a clear need for open and transparent consultation with business on the issues under discussion. Accordingly, the European Commission and the Russian Government should set up appropriate advisory structures for business.

Creating an EU-Russia Common Market for Goods

In line with the spirit of WTO rules requiring the liberalisation of substantially all trade in bilateral trade agreements, the new agreement should aim at eliminating duties without a priori exclusions.

Non-tariff barriers (NTBs) represent a significant obstacle to EU-Russian trade. It is crucial that the agreement tackles NTBs effectively and a standstill on non-tariff barriers should be envisaged as a starting point for the negotiations. Export restrictions and taxes as well as other subsidies regarding raw materials and agricultural goods should be addressed and appropriate decisions taken to move towards market based approaches. Customs related barriers and discriminatory product regulations and standards must also be given priority treatment. An efficient process for monitoring regulatory and other activities to ensure that new NTBs are not being created as well a mediation mechanism should be included in the agreement.

The agreement should also cover agricultural goods broadly as this will provide new commercial opportunities for both importers and exporters in Europe and Russia. This is also a required in order to guarantee compatibility with WTO provisions requiring coverage of substantially all trade.

Opening Opportunities for Services

Given the increasingly important role of services, the agreement must ensure comprehensive liberalization of key sectors like financial services, telecommunications, professional and business services, transport and express delivery services. The coverage of the agreement should be comprehensive as set out in WTO GATS Article V.

Services chapter commitments should cover all modes of supply. Furthermore, business calls for a negative list approach to services scheduling whereby only those sectors which are not fully liberalized are included in the schedule. A negative list approach implies full national treatment and market access except where otherwise indicated and thus clarifies commitments considerably. It also facilitates future integration by avoiding conflicts over the classification of new service sectors. Future updating of the agreement is also facilitated as the reduction of excluded areas is simply a matter of removing them from the schedule.

Promoting Better and Fair Treatment for Investment

Business favours the oft-stated long term goal of achieving a worldwide comprehensive investment agreement guaranteeing full transparency, non-discrimination and national treatment, free access to markets and full protection of investments. However, given that even a successful DDA will not deliver any improvement in global rules, it is essential that the EU and Russia make significant progress bilaterally.

Global supply chains are increasingly a requirement to make products competitive. In services, investment is equally crucial as much trade is dependent on the establishment of commercial presence for practical reasons.

The investment elements should take a broad definition of investment to capture the full array of companies' assets, including for example physical assets, intellectual property and securities. Transparency – through publication of all elements of the

investment regime – national treatment – and non-discrimination against foreign investors in any regulatory measures – are key principles to be respected.

Market access elements must go further than the post-establishment provisions common to bilateral investment treaties and address pre-establishment issues such as foreign equity caps and restrictions on legal status. A negative list approach is preferable here.

The investment clauses of the EU-Russia economic agreement should be considered a minimum platform that builds on and in no way undermines or conflicts with existing EU Member State–Russia bilateral investment treaties (BITs). Moreover, EU Member States and Russia should have the option to revise and/or renegotiate BITs in the future. The free flow of cross-border investments should become the cornerstone of strategic partnership.

Russia as well as the EU should further develop strategies to encourage industrial policy cooperation which could facilitate joint research programs to boost competitiveness. These strategies could serve as platforms to encourage cross-border investments in key high technology industries.

Strengthening Intellectual Property Rights for Innovation

The protection of intellectual property is critical to innovation and competitiveness. Companies must know that their intellectual property is secure when they sell and, more importantly, invest. Full implementation and enforcement of TRIPs commitments must be one of the key issues in the new agreement. However the EU and Russia should also grasp the opportunity to go further than was possible during the negotiation of the Uruguay Round. At a minimum the new agreement must contain commitments to sign up to all provisions of all relevant international conventions on intellectual property.

The agreement must also contain strong provisions on enforcement, and provide detailed prescriptions on the legal and procedural reforms necessary to ensure that regimes effectively protect intellectual property. The implementation of these commitments must be fully subject to dispute settlement provisions and a company-to-state dispute settlement mechanism should also be examined in this context.

Ensuring Close Cooperation on Competition

Companies should be able to compete with each other on a level playing-field and be able to trust on the systems to enforce competition policy. Disciplines should include basic principles of transparency and non-discrimination as well as commitments to tackle cartels. Strict rules on government subsidies should be sought in the new agreement in order to obviate the need for recourse to anti-subsidy measures between the EU and Russia. Procedures to enforce common strict rules on government subsidies should be envisaged where possible and appropriate.

Cooperation between enforcement bodies should also be envisaged, as long as this protects confidential business information. In addition, the implementation of such provisions should be subject to dispute settlement. It should remain clear, however, that individual cases are the preserve of Russian or EU authorities.

Reaping the benefits of Open Public Procurement

Public procurement represents a substantial proportion of GDP in both goods and services in Russia and the EU. The EU-Russia agreement should facilitate national treatment and non-discrimination. Transparency is also a key issue to be addressed.

Strong Rules for a level playing field

Though the WTO is the trade rule-making body *par excellence*, the EU-Russia bilateral negotiations should also be a tool to ensure best practices in trade policy implementation, particularly in trade facilitation. The agreement should also make reference to the need for full compliance with WTO agreements on trade defence instruments.

Bureaucratic and excessive border formalities have a growing impact on the costs of trade and limit the ability of companies - especially small companies - to develop internationally. In addition, these procedures and rules can easily be misused to restrict imports for protectionist purposes. Accordingly the new agreement must also assertively address the area of trade facilitation. The provisions of the agreement should be focused on:

- the minimisation and/or elimination of fees and charges;
- procedures for legal recourse and appeal, complaint or mediation services in the case of disputes with customs;
- the establishment of a single window;
- publication of trade regulations
- accelerated and simplified procedures for the release and clearance of goods.

Such an approach will help to facilitate trade significantly for both the EU and Russian companies.

Beyond trade facilitation, the EU and Russia should establish deeper customs cooperation to facilitate the integration of markets for trade in goods and development of cross-border investment, including contract manufacturing. Early transfer to electronic supply of information for customs clearance is a high priority. Similarly, the EU and Russia must work together to overcome transport and logistical problems that further hinder trade relations.

Mutually Favourable Domestic regulation

The significance of the barriers created by domestic regulation has increased. Non-tariff barriers can take the form of the customs barriers and export restrictions listed above but also can be the result of divergent regulations and standards. The negotiators must seek to address this, setting a course towards regulatory convergence - around transparent, predictable, proportionate and fact-based regulation.

Strong disciplines on domestic regulation should include the competition and non-tariff barrier elements referred to above and build on the provisions of the WTO TBT, SPS and GATS agreements to ensure a transparent, predictable regulatory process, based

on the best available scientific information. Disciplines that would cover issues such as impact and risk assessment are supported as well.

Business-friendly and Effective Dispute settlement

Dialogue and negotiated solutions are the best way of resolving trade disputes. However, the new EU-Russia agreement should also include a binding and effective dispute settlement mechanism to guarantee full implementation of rules and strong rights for EU and Russian companies involved in cross-border trade and investment. The WTO's Dispute Settlement Understanding should serve as the model for such provision. However, the bilateral deal should take the opportunity for further improvements. Governments should take advantage of consultations to resolve disputes quickly. The main aim of consultations is to assist disputing parties to reach mutually acceptable decision with minimum delays and financial costs.

A key point to address is direct access by companies to the dispute mechanism to introduce much greater efficiency into the procedure and eliminate the burden on both the EU and Russian governments to launch all cases. Further improvements should include introducing more legalistic elements such as greater transparency and a standing panel of experts to carry out arbitration.

Avoiding the 'Spaghetti Bowl' effect

The parties must endeavour to ensure that the new agreement creates the minimum degree of complications to the international trading system. This can be achieved in a number of ways. As mentioned above securing substantial product coverage in goods and as broad coverage as possible in services together with strong investment agreement is a necessary starting point.

The agreement should also include straightforward rules of origin that are clear, transparent, easily implemented and as harmonised as possible with WTO rules. The possibility to apply the common European rules of origin should be considered. Common parameters for such issues as coverage and rules of origin would greatly reduce the administrative burden of administering the new agreement.

Conclusion

The joint aim of the EU and Russian business communities is to seek to conclude a robust, ambitious agreement creating deep economic integration.

In parallel, EU and Russian business underline that participation in international conventions on good administrative practices and well-functioning, non-discriminatory judicial systems are vital for a thriving business environment. The EU and Russia could also benefit greatly from wider exchange of best practices and effective cooperation in relevant international organisations on these issues.

Business encourages the EU and the Russian Federation to step up their cooperation in international organisations, such as the WTO, OECD, the IMF and World Bank to address international economic governance issues across the board.

BUSINESSEUROPE and RSPP are ready to contribute to the negotiations through ongoing dialogue with negotiators from both sides.