



# Trade Policies in Russia

**THE ROLE OF LOCAL  
AND REGIONAL GOVERNMENTS**

Industry Services Trade  
Industry Services Trade



# **Trade Policies in Russia**

**THE ROLE OF LOCAL  
AND REGIONAL GOVERNMENTS**



ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

# ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Pursuant to Article 1 of the Convention signed in Paris on 14th December 1960, and which came into force on 30th September 1961, the Organisation for Economic Co-operation and Development (OECD) shall promote policies designed:

- to achieve the highest sustainable economic growth and employment and a rising standard of living in member countries, while maintaining financial stability, and thus to contribute to the development of the world economy;
- to contribute to sound economic expansion in member as well as non-member countries in the process of economic development; and
- to contribute to the expansion of world trade on a multilateral, non-discriminatory basis in accordance with international obligations.

The original member countries of the OECD are Austria, Belgium, Canada, Denmark, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. The following countries became members subsequently through accession at the dates indicated hereafter: Japan (28th April 1964), Finland (28th January 1969), Australia (7th June 1971), New Zealand (29th May 1973), Mexico (18th May 1994), the Czech Republic (21st December 1995), Hungary (7th May 1996), Poland (22nd November 1996), Korea (12th December 1996) and the Slovak Republic (14th December 2000). The Commission of the European Communities takes part in the work of the OECD (Article 13 of the OECD Convention).

## OECD CENTRE FOR CO-OPERATION WITH NON-MEMBERS

The OECD Centre for Co-operation with Non-members (CCNM) promotes and co-ordinates OECD's policy dialogue and co-operation with economies outside the OECD area. The OECD currently maintains policy co-operation with approximately 70 non-member economies.

The essence of CCNM co-operative programmes with non-members is to make the rich and varied assets of the OECD available beyond its current membership to interested non-members. For example, the OECD's unique co-operative working methods that have been developed over many years; a stock of best practices across all areas of public policy experiences among members; on-going policy dialogue among senior representatives from capitals, reinforced by reciprocal peer pressure; and the capacity to address interdisciplinary issues. All of this is supported by a rich historical database and strong analytical capacity within the Secretariat. Likewise, member countries benefit from the exchange of experience with experts and officials from non-member economies.

The CCNM's programmes cover the major policy areas of OECD expertise that are of mutual interest to non-members. These include: economic monitoring, statistics, structural adjustment through sectoral policies, trade policy, international investment, financial sector reform, international taxation, environment, agriculture, labour market, education and social policy, as well as innovation and technological policy development

*Publié en français sous le titre :*

**Politique commerciale de la Russie**  
LE RÔLE DES AUTORITÉS LOCALES ET RÉGIONALES

© OECD 2003

---

Permission to reproduce a portion of this work for non-commercial purposes or classroom use should be obtained through the Centre français d'exploitation du droit de copie (CFC), 20, rue des Grands-Augustins, 75006 Paris, France, tel. (33-1) 44 07 47 70, fax (33-1) 46 34 67 19, for every country except the United States. In the United States permission should be obtained through the Copyright Clearance Center, Customer Service, (508)750-8400, 222 Rosewood Drive, Danvers, MA 01923 USA, or CCC Online: [www.copyright.com](http://www.copyright.com). All other applications for permission to reproduce or translate all or part of this book should be made to OECD Publications, 2, rue André-Pascal, 75775 Paris Cedex 16, France.

---

## FOREWORD

In the aftermath of the break-up of the Soviet Union, the Russian Federation replaced a highly centralised, unitary state with a decentralised federal system. The 89 "subjects," or regions, of the new federation thus began to share responsibility in many public policy areas that the central government had previously dominated, including, for example, trade policy. Many Russian regional governments now actively promote international trade and investment, while others erect barriers to international, and sometimes interregional trade. Some offer a variety of subsidies and tax incentives that favour local producers and discriminate against non-local suppliers in purchases of goods and services for state needs. They also regulate their economies to pursue environmental, health, safety and other social and economic objectives in ways that affect trade flows.

The involvement of regional and local governments in trade-related policies is not unusual. In most federal systems, sub-national governments are responsible for policies that regulate or promote certain economic activities, limit access to certain markets, or otherwise influence trade flows. While some diversity in trade-related policies is inevitable and in some cases, useful, it can raise significant problems at the national level. Discriminatory regional policies, such as subsidies and restrictions on market access can lead to costly distortions in the allocation of resources. The Federal Government has assigned high priority to ensuring that regional laws and practices do not contradict federal trade policies or undermine the commitments that Russia is negotiating in the World Trade Organisation (WTO). It is clear, however, that creating a unified trade policy is a long-term undertaking that will require continuous work.

This study summarises the findings of a project initiated by the Trade Directorate in 1998 to study to role of Russia's regions in trade policy. The project included a series of case studies of individual regional governments, two conferences in Russia (one in Novgorod in March 1999 and another in Vladivostok in October 2001) on "The Interface Between the Central and Sub-National Levels of Government in Russia's Trade Policy" and numerous discussions in the Working Party of the Trade Committee. The project, which was carried out within the program of the Centre for Co-operation with Non-

Members, is an integral part of the OECD's general efforts to promote Russia's integration into the international trading system.

This study is an overview and analysis of the results of a project carried out by the Trade Directorate from 1998 to 2002. The project consisted of a number of case studies carried out by researchers in Russia, two round table discussions in which officials from the Russian federal government and numerous regional governments participated, and discussions in the Working Party of the Trade Committee. George Holliday coordinated the final drafting of the study. Blanka Kalinova and John Martens initiated and made major contributions to the project.

This book is published under the responsibility of the Secretary-General.

*Eric Burgeat*  
*Director*  
*Centre for Co-operation with Non-Members*

## TABLE OF CONTENTS

Introduction and Executive Summary .....	7
<i>Chapter 1</i> Sub-national governments in the Russian Federation: Factors that influence their roles in trade policy .....	13
Introduction .....	14
Legal and constitutional framework.....	14
Economic profiles of the regions .....	23
Economic policy orientation of the regional governments .....	26
General observations on Russia’s regions.....	29
Annex .....	31
References .....	40
<i>Chapter 2</i> Trade-related legislative and administrative practices in several Russian regions: A synthesis of the case studies .....	43
Introduction .....	44
Protectionism through regional “border” measures.....	45
Customs administration .....	47
Competition policy .....	51
Standards and certification .....	55
Financial aid and subsidies .....	57
Government procurement .....	62
Investment and trade promotion and registration of foreign investors .....	67
Environmental protection .....	73
Licensing procedures for service providers .....	75
Natural resources .....	80
Intellectual property rights.....	82
References .....	85
<i>Chapter 3</i> Reforms of the Russian federal system: Examples of their effects on regional trade-related laws.....	87
Introduction .....	88
Establishment of presidential representatives.....	89

Legal review of legislative acts of Russian Federation members by the Russian Federation ministry of justice.....	91
Co-ordination of international and foreign economic relations of members of the Russian Federation.....	98
Delineation of subjects of jurisdiction and authorities by treaties and agreements .....	99
General administrative reforms – “debureaucratisation” .....	99
Educating regional officials and others about the implications of WTO accession.....	100
References .....	102
<i>Chapter 4</i> Concluding remarks .....	103
Introduction .....	104
Major problems in regional trade-related policies.....	104
Trade policy in Russia’s federal system .....	105
Response of the federal government.....	106
Background Documentation.....	108

## **Tables**

Table 1.1. Typology of regions according to economic policies.....	28
Table 2.1. Key trade-related issues raised in OECD surveys of Russian sub-federal policies .....	46
Table A1. Comprehensive ranking of socio-economic development of subjects of the Russian Federation: selected data, 2002.....	31
Table A2. Regions with the largest volume of foreign direct investment.....	35
Table A3. Structure of industry for selected regions .....	36
Table A4. Budgetary expenditures as percentage of local budgetary revenues: selected regions, 2000 .....	39

## **Boxes**

Box 2.1. Role of the sub-federal governments in controlling prices.....	54
Box 2.2. Non-agricultural subsidy programmes by sub-federal governments .....	59

## INTRODUCTION AND EXECUTIVE SUMMARY

**Abstract.** This study provides an overview and analysis of the results of a project initiated by the OECD's Trade Directorate in 1998 to examine the role of local and regional governments in Russia's trade policy. The project has demonstrated that Russia's 89 regions have been active in enacting legislation and regulating the economy in ways that affect international trade. The role of Russia's regions in trade policy is an important issue for its trade partners because it influences the ability of the central government to carry out its commitments in international trade agreements, particularly in negotiations on accession to the World Trade Organisation (WTO). It is also an important aspect of Russia's efforts to build a unified economic and legal space to promote economic development and to define the general nature of its federal system of government.

The important steps taken by the Russian government to integrate its economy into the international trading system has highlighted the role of its regional and local governments in trade policy. The involvement of regional and local governments in trade-related policies is not unusual in federal systems of government like Russia's. In most federal systems, sub-national governments are responsible for policies that regulate or promote certain economic activities, limit access to certain markets, or otherwise influence trade flows. In some cases, sub-national policies are aimed at pursuing various social or economic goals, but have unintended trade consequences. Examples are taxes to raise revenues, subsidies to promote domestic economic activities, and licensing and certification to protect consumers. In other cases, policies may be intended to favour local producers. For example, regional and local governments may discriminate against foreign enterprises (and sometimes enterprises in other regions) by giving tax exemptions or other subsidies to local enterprises, discriminating in government procurement, or imposing licensing and other regulatory measures that favour local producers.

In recent years, international trade disciplines, particularly those of the WTO, increasingly extend beyond measures taken at national borders (such as tariffs and quotas) into areas that have traditionally been considered to be domestic economic policies, often implemented by sub-national levels of government. WTO disciplines extend to numerous domestic government programmes, such as: product standards, health and safety measures, environmental measures, and intellectual property protection, which can have significant effects on trade flows. They also go beyond trade in goods and now include the liberalisation of trade in service industries such as banking, insurance, retailing, communication, consulting, tourism, and transportation. The WTO agreement requires members with federal systems to "take such reasonable measures as may be available to it to ensure observance of the provisions of this Agreement by the regional and local governments and authorities within its territories."<sup>1</sup>

Thus, when the Russian Federation accedes to the WTO, it will be required to ensure that the laws and administrative practices of federation members do not contradict WTO principles such as non-discrimination, national treatment, transparency, and specific obligations on improving market access. The ongoing negotiations on Russia's accession to the WTO have included a review of

---

<sup>1</sup> GATT Article XXIV. The Understanding on the Interpretation of Article XXIV, approved as part of the Final Act of the Uruguay Round, underlined this requirement and made it clear that non-observance of WTO rules by sub-national levels of government are subject to provisions of the WTO's dispute settlement mechanism.

certain trade-related policies carried out by Russian regional and local governments and commitments from the Russian government to ensure that those policies are consistent with WTO rules. Of special concern in the negotiations is the question of how the WTO accession agreement would be ratified and WTO rules implemented in Russia. For example, would sub-central governments play a role in approving the agreement and how could the central government ensure that its provisions would be implemented in all the regions?

The experience of most OECD member countries that have a federal form of government underscores the necessity of building efficient co-ordination among the various levels of government when negotiating international trade commitments. The mechanisms of co-ordination have varied considerably among the OECD member countries, often relating to a particular country's history and political culture. In all cases, however, co-ordination between the federal and regional levels of government requires an active exchange of information and regional officials who are knowledgeable about the various international trade disciplines.

This document provides an overview and synthesis of the OECD's work on the interface between the central and sub-national levels of government in Russia's trade policy. The first chapter provides an overview of the role of sub-national governments in Russia's trade policy, focusing on the legal framework for Russia's trade policy, and other factors that influence the regions' involvement in trade policy. Russia's federal system of government divides functions related to trade policy, including the disciplines of the WTO between the central government and sub-national levels of government. Russia's Constitution assigns clear pre-eminence to the central government in the direct regulation of trade, but assigns joint responsibility to the central and regional governments in many trade-related areas. Treaties and agreements between the central government and some regional governments and laws adopted by the regional governments have solidified and legitimised the role of the sub-national governments. Because of this role, Russia's efforts to adopt more open trade policies and to adhere to international trade disciplines require actions by the regional governments as well as the central government.

Chapter 1 also briefly surveys the differences in economic conditions and economic policy orientations among the regions that may help to shape their interactions with the federal government and their approaches to trade policy. There are major differences in the economic environments in which the regional governments operate. There are relatively rich and poor regions; a few regions that are actively engaging in international markets and many that are not; regions with different industrial structures; and regions with varying degrees of fiscal dependence on the central government (selected economic data are

presented in the Annex to chapter 1). There are also marked differences in the economic policy orientations of the regional governments: some regions have political leaders who actively promote market reforms and open markets, while others favour government controls over the economy and protection of local economic interests.

Chapter 2 provides examples from five case studies of how the policies of regional authorities can affect trade flows and Russia's international trade commitments. The case studies examined trade-related policies in St. Petersburg and Sverdlovsk *oblast* in 1998, Novgorod *oblast* in 1999, Primorskiy *krai* in 2000 and the City of Moscow in 2001 (the St. Petersburg case study was updated in 2002). The case studies examine a range of policies, including "border" measures to protect local markets during the financial crisis of 1998; measures by regional branches of federal agencies that administer customs, competition policies, and product standards; financial aid and subsidies; government procurement; investment and trade promotion; environmental protection; licensing procedures for service industries; control of natural resources and protection of intellectual property rights.

The case studies revealed many differences in trade-related policies: they differed among the regions, and they often departed from federal norms. For example, regional governments offer a variety of subsidies and make purchases for state needs, often without regard for the effects of such programmes on international trade or on Russia's commitments in international trade agreements. Their state purchasing authorities sometimes discriminate against non-local suppliers. They also regulate the economy in various ways to pursue environmental, health, safety and other social and economic objectives in ways that could affect trade flows. For example, they require a large number of licences and product certifications and give local officials wide discretionary authority to make decisions about which firms receive them. In some cases, regional governments have deliberately erected barriers to international and interregional trade to protect local economic interests. Moreover, the practices of regional departments of some federal agencies, such as customs, anti-monopoly and standards, vary among the regions, often reflecting special conditions in the region or the preferences of regional political leaders.

Chapter 3 reviews recent measures taken by the federal government to ensure that national trade laws are observed throughout Russia. These measures, a part of the general campaign to strengthen the power of the national government and reinforce the foundations of a single economic and legal space, have been assigned high priority in the last two years. The reforms, which have inevitably affected the role of the regions in trade related policies, include measures to establish Presidential Representatives to seven large federal districts to co-

ordinate federal relations with the regions; to review legislative acts of regional governments to ensure their conformity with federal laws; to review international agreements that regional governments sign; and to review treaties and agreements signed between the regions and the federal government in the 1990s.

The final chapter examines the implications of regional activities in trade-related areas for the Russian economy and Russia's international trade commitments. While some variation in trade-related policies among the regions is inevitable and sometimes useful, many measures observed in the case studies make it difficult for the central government to undertake important multilateral trade commitments and have had adverse effects on the Russian economy. Evidence that regional governments have introduced policies that diverge from national policies and multilateral rules, creates concerns among Russia's trade partners that its commitments will not be implemented uniformly. In addition, when regional governments introduce policies that are discriminatory, non-transparent or unpredictable, they add to the costs of doing business, raise prices for consumers, and create barriers to inter-regional and international trade. A uniform trade policy that is transparent, predictable and non-discriminatory serves to expand trade and investment and promote economic growth.

As in other areas, the WTO accession process has revealed some policy inconsistencies and prompted Russian authorities to address the implications of trade-related policies pursued by sub-federal governments. The federal government has made a determined effort, with notable successes, to bring regional laws into conformity with federal laws. It has also begun an essential dialogue with the regional governments and non-governmental organisations on the implications of accession to the WTO and, more generally, integration into the international economy. Further efforts to ensure effective implementation of WTO-consistent policies in the regions can contribute to the development of a unified economic space in Russia.



## *Chapter 1*

### **SUB-NATIONAL GOVERNMENTS IN THE RUSSIAN FEDERATION: FACTORS THAT INFLUENCE THEIR ROLES IN TRADE POLICY**

**Abstract.** Russia's federal system divides the power to conduct trade policy between federal and sub-federal levels of government. The Russian Federation Constitution and federal laws give clear pre-eminence to the federal government in trade policy, but specify a number of aspects of trade policy for which sub-federal governments have joint responsibility. While the legal framework seeks to ensure a uniform trade policy, treaties and agreements between the central and regional governments have allowed a variety of roles for the regional governments. The picture is further complicated because the regional branches of federal agencies, which are supposed to ensure uniform administration, are often heavily influenced by the preferences of regional officials. Moreover, different economic conditions and policy orientations of the regional governments have influenced the way they conduct trade-related policies.

## Introduction

In the aftermath of the break-up of the Soviet Union, the Russian Federation replaced what had been a highly centralised, unitary state with a decentralised federal system. As defined by the Federal Treaty of 1992, the new federation consists of 89 “subjects” — 21 republics, six *krais* (territories), 49 *oblasts* (sometimes translated as regions), one autonomous *oblast*, ten autonomous *okrugs* (districts), and two cities of federal importance (Moscow and St. Petersburg)<sup>1</sup> (the term regions is frequently used to describe all of the Russian Federation “subjects”). A third level of local government — cities, towns, villages and counties — are subordinate to the subjects. All of these sub-national levels of government have roles in the implementation of policies that influence trade and have implications for Russia’s future commitments in international trade agreements. This chapter describes the legal and economic contexts in which sub-federal governments carry out such policies.

## Legal and constitutional framework

Russia's federal system of government divides functions related to trade policy in general, and to the disciplines of the WTO in particular, between the central government and sub-national levels of government<sup>2</sup> (in this respect, it is similar to many OECD countries with federal systems). Russia's Constitution assigns clear pre-eminence to the central government in the conduct of trade policy, but assigns joint responsibility to the central government and regional governments in many areas. Treaties and agreements between the central government and the regional governments and laws adopted by the regional governments have solidified and legitimised the role of the latter. Because of this role, Russia's efforts to adopt more open trade policies and to adhere to international trade disciplines require actions by the regional governments as well as the central government.

---

<sup>1</sup> The republics are the titular homelands of non-Russian ethnic groups. They have their own constitutions and elect their own presidents. *Oblasts* and *krais* are run by elected governors. Autonomous *okrugs* are ethnic subdivisions of *oblasts* or *krais*.

<sup>2</sup> This survey of the legal framework is based in part on information and analysis provided by the Centre for Trade Policy and Law in Moscow.

## ***Constitution of the Russian Federation***

The Constitution of the Russian Federation plays the decisive role in delimiting powers and areas of responsibility among different levels of government. It defines the powers and responsibilities of the Russian Federation and the powers and responsibilities that are held jointly by the Russian Federation and its components. It provides that laws and other legal acts adopted in the subjects of the Russian Federation shall not contradict the Constitution or legislation adopted under the federal government under its constitutional powers. In case of a contradiction between a federal law and any law adopted by the subjects, the federal law should be applied.

Article 71 of the Constitution lists all matters for which the federal government has exclusive jurisdiction. Among them are important functions related to economic policy establishment of the legal foundations of the single market and regulation of financial, currency, credit and customs matters; foreign policy and international treaties; and foreign economic relations. Article 72 lists matters under joint jurisdiction of the central government and the subjects, including key issues such as the ownership and use of land, mineral resources, water and other natural resources; delimitation of state property; environmental protection; public health; and taxation. The Constitution also provides that the “co-ordination of international and foreign economic relations of components of the Russian Federation and the fulfilment of the Russian Federation’s international treaties” is under the joint jurisdiction of the central government and the regions.

With respect to the matters under joint jurisdiction, the Constitution grants laws enacted by the federal government precedence over laws passed by the subjects. Nevertheless, the subjects have used their constitutional power to enact laws and regulations on important issues for which they have joint jurisdiction. In areas where the federal government has not enacted laws, for example, the subjects have often passed their own laws. One example is the ownership of land: while the federal government was deadlocked over proposals to enact a comprehensive land code, many regional governments enacted laws to fill the void (Risnes, 2001, pp. 42-43).

Moreover, the Constitution’s list of areas under the jurisdiction of the federal government is exhaustive. Therefore, matters that are not explicitly included are assumed to be under the jurisdiction of the subjects. The Constitution also provides that the central government and the regions can, by agreement, hand over to each other, the implementation of their powers.

The Constitution (unlike the Federal Treaty that governed relations between the centre and the regions before) was designed to provide for equal treatment of all types of subjects — the republics, *krais*, *oblasts*, cities of federal significance, and autonomous *okrugs*. Under the Federal Treaty, the republics had had certain powers that were not shared by the other subjects. Under the Constitution, the republics were no longer designated as sovereign entities. Rather, the Constitution emphasised the inviolability of borders and the territorial integrity of the Russian Federation (Honneland and Blakkisrud, 2001, p. 5). While the adoption of the Constitution equalised the basic legal framework for the various constituent parts of the Federation, legal differences have developed as a result of the Treaties and agreements signed between the centre and the regions to implement and elaborate the areas of joint responsibility.

The Constitution provides that international treaties to which the Russian Federation is party have precedence over domestic laws. According to Article 15, if domestic laws conflict with the provisions of an international treaty signed by Russia, the rules of the international treaty apply.

### ***Federal laws***

The Constitutional framework for co-ordination of foreign economic relations has been elaborated in several federal laws. Federal Law 157-FZ, of 13 October 1995 “On the State Regulation of Foreign Trade,” (as amended in 1997 and 1999) establishes the relative competencies of the federal and regional governments in foreign trade. It assigns the federal government such responsibilities as: developing the Federation’s trade policy, regulating foreign trade activity (*e.g.* tariff and non-tariff measures, policies on certifying products for import or export, and establishing obligatory standards and safety rules for imports) and concluding international agreements on trade. Joint responsibility is assigned for such areas as: export promotion, carrying out foreign trade-related international agreements that affect the interests of the regions, and supplying information on foreign trade. In addition, Russian regions are permitted to perform such functions as overseeing, in accordance with Federation laws, the foreign trade activities occurring in their territories; providing supplemental guarantees and privileges; concluding agreements with foreign states; and maintaining representatives abroad.

The 1995 Law also provides that federal government agencies co-ordinate with the regional executive bodies any foreign trade decisions, such as international agreements, that affect regional interests. Federal Law 101-FZ, of 15 July 1995, “On international treaties of the Russian Federation,” further provides that, if a prospective international treaty of the Russian Federation affects issues falling

within the joint jurisdiction of the regions, the federal government should send the main provisions or a draft to the regions. Proposals received from the regions are to be considered in drafting the international treaty.<sup>3</sup>

Federation Law 4-FZ, “On Co-ordination of International and Foreign Economic Ties of the Subjects of the Russian Federation,” enacted 2 January 1999, sets limits on international agreements concluded by regional governments. The Law requires the regions to notify the appropriate federal authorities before entering into negotiations on an international agreement and establishes a procedure for prior approval by federal authorities. It stipulates that such agreements cannot contradict federation laws or treaties, and that conflicts are to be settled by established conciliation procedures or in the courts.

Federal Law 184, of 6 October 1999 “On the general principles of the organisation of the legislative and executive organs of state power of the subjects of the Russian Federation” (as amended in July 2000 and February 2001), provides a mechanism for ensuring the conformity of the constitutions, laws and other legal acts of the subjects of the Russian Federation to the federal constitution and laws. It stipulates that laws enacted by sub-national governments must not contradict the constitution and national laws. The President has the authority to challenge laws enacted by sub-national governments or acts of the executive branches of the subjects and to suspend conflicting laws temporarily until the courts decide whether such measures are valid.

### ***Treaties and agreements between the central government and the regions***

Treaties and agreements between the central government and the regions provide different frameworks within which sub-national governments can legally carry out functions related to foreign trade. The differences in the treaties and agreements depend not on the status of the region (though republics have tended to retain relatively more independence than other regions), but on other factors, such as personalities of the leaders and political bargaining between the regions and the centre (Kahn, 2000). In many cases, the differences in the treaties reflect geographical, economic or other peculiarities of the region.

---

<sup>3</sup> Under Russian law, an international treaty means an international agreement concluded by the Russian Federation with a foreign State or with an international organisation. Russian officials have made it clear that a Protocol of accession to the WTO would have the status of an international treaty and would thus become an integral part of the legal system of the Russian Federation.

Thus, the treaty for Kaliningrad *Oblast* reflects its non-contiguous geographical location, and the treaty for the Republic of Buryatia addresses problems of environmental protection that are unique to Lake Baikal and the economic development of the Baikal-Amur rail line zone.

The first treaties were concluded with the republics, beginning with the Republic of Tatarstan in February 1994. They were intended to clarify the roles of the central government and the republican governments after the latter claimed broad powers to implement their own policies independently of the centre. The treaties were elaborated by specific agreements that defined the powers of the republics in various policy areas, such as budgetary matters, control of state property, the regulation of the economy, ownership of natural resources, and environmental protection (OECD, 1997, p. 190-2). Although the treaties were intended initially only for the republics, other regional entities soon lobbied for similar treatment, and, given their equal status under the Constitution, the federal government found it difficult to deny their demands. Consequently, treaties were concluded with over half of the 89 regions, one of the most recent with the City of Moscow in June 1998.<sup>4</sup>

The following brief descriptions of the major foreign trade-related elements in treaties and agreements between the centre and four regional governments – the Republic of Tatarstan, Krasnodar Territory, Tver *Oblast* and the city of Moscow – illustrate the extent to which the formal legal framework can vary.

### *Republic of Tatarstan*

Among the important trade-related responsibilities of the Republic of Tatarstan, as defined in Article II of the Treaty signed in 1994 are formulating the Republic's budget and collecting the Republic's taxes; ownership and exploitation of land, water, timber and other natural resources; participation in international organisations and concluding international agreements; and

---

<sup>4</sup> Among the initiatives by the federal government to reform the relationship between the federal and sub-federal levels of governments is a comprehensive review of the treaties and agreements. The review has led to changes in many of the treaties and, in some cases, federal and regional authorities have agreed to annul them. According to Duma Deputy Viktor Grishin, of the State Duma Committee on Federation Affairs and Regional Policy, 42 of the treaties remained in force in December 2002 (Radio Free Europe/Radio Liberty, 2002). See Chapter 3 below for further discussion.

carrying out certain foreign economic activities that are elaborated in a separate agreement.

Article III of the Treaty defines areas of joint responsibility of the Republic and the central government, including international economic relations; price, monetary, and employment policies; management of a common energy system, transportation systems, and communication systems; establishing funds for regional development; and environmental protection.

Several agreements signed by the federal government and the Tatar Republic in 1994 elaborate the delimitation of responsibilities. Two of the agreements are particularly important for trade policy. An agreement of 15 February 1994 delimits powers in the field of foreign economic relations. Among the joint responsibilities of the central government and the Republic are:

- Defending the economic interests of the Tatar Republic and its enterprises, organisations and citizens abroad.
- Establishing export quotas on goods, including crude oil and refined products, produced in the Republic.
- Regulation of payments and settlements with foreign states.
- Establishment of trade and economic relations with foreign states and international economic organisations.
- Licensing of investments of the Republic in foreign countries.

The agreement assigns the following responsibilities exclusively to the Republic:

- Concluding foreign economic agreements with the administrative or territorial units of other countries.
- Borrowing on international markets, with the backing of the government of the Republic.
- Promotion of foreign investment in the Republic.
- Participation in the activities of international economic organisations.
- Granting credits, loans and aid to foreign partners.
- Creation of free economic zones in the Republic.

Another agreement delimiting responsibilities in the field of economic co-operation was signed at the same time. It provides that the Republic controls the exploitation, extraction and sale of natural resources, including oil.

### *Krasnodar Territory*

A treaty delimiting areas of responsibility between the central government and Krasnodar Territory was signed 30 January 1996. It assigns joint responsibility with respect to economic activities involving resort and recreation zones in Krasnodar and questions concerning land tenure in the territory. Agreements signed at that time include provisions that give the territorial government responsibility for construction standards and licensing and certification of enterprises operating in the resort, recreation and tourism industry. Another agreement on economic issues provides that the territorial government controls the exploitation, extraction and processing of mineral resources.

### *Tver Oblast*

A treaty signed 13 June 1996 provides joint responsibility for development of the agro-food complex of the *oblast*, certification and licensing of certain economic activities, including foreign firms and individuals, and use of customs duties collected in the territory for export promotion and development of infrastructure for customs and other foreign trade activities.

### *Moscow*

A treaty signed 16 June 1998 provides joint responsibility for the following:

- Certification and identification of products and services in accordance with federal legislation.
- Licensing of some kinds of economic activities in Moscow.
- Establishing rules of distribution of some kinds of goods and services.
- Development and functioning of transportation facilities.
- Employment.

- Use of customs duties collected in Moscow for export promotion and development of infrastructure for customs and other foreign trade activities.
- Borrowing on international markets, in accordance with federal laws.

The treaty provides that Moscow can participate independently or on behalf of federal bodies in international economic relations. It is also authorised to conclude agreements with administrative-territorial units of other countries or other foreign partners. Federal agencies co-ordinate the international relations of Moscow.

The most striking difference in the treaties and agreements is the degree to which the powers and responsibilities of the different kinds of subjects are elaborated. The treaty and agreements for the Republic of Tatarstan and, to a lesser extent, the city of Moscow appear to spell out quite extensive jurisdictions on trade-related matters, whereas those for Krasnodar Territory and Tver *Oblast* provide only a meagre list of trade-related functions. It is difficult to draw firm conclusions about the significance of these differences. On the one hand, the treaties and agreements may reflect the successful bargaining of two subjects that are economically and politically powerful and have a reputation for independence and two other subjects that have been relatively deferential to the central government. On the other hand, the official documents may not reflect real differences in the actual conduct of trade-related policies by the four subjects. Regional officials may interpret the treaties and agreements, along with provisions of the Constitution in either a very narrow or an expansive way or may choose to pursue certain policies that are legally proscribed.

A brief review of the regions discussed above suggests that they have all enacted laws with important implications for trade policy and that the laws differ in many respects. Generally, the trade-related areas that have most often been addressed in legislation in the four regions are:

- Licensing procedures.
- Distribution services.
- Use of land and other natural resources.
- Customs procedures.
- Regulation of foreign investment (registration procedures, incentives).

- Government procurement.
- Trade promotion.
- Environmental protection requirements.

In most cases the laws adopted by the regional governments appear to be in accordance with the Constitution and with the treaties and agreements signed with the central government. There are, however, at least some differences, such as licensing activities that are inconsistent with federal laws, laws related to land ownership, and regulation of foreign investment. Moreover, written laws do not always accurately reflect the actual situation in the regions. The regions seem to have acted, to varying degrees, independently of federal authorities in administering many trade-related policies. In particular, the regions appear to pursue their own regulatory policies in ways that may have an important influence on trade flows (Chapter 2 discusses in more detail the role of five regions, including Moscow, in trade-related policies).

### ***Role of the regional branches of the federal administration***

Federal agencies have an extensive presence in the regions: most federal ministries and committees, including those in trade-related areas such as customs and standards, have branches in the regions. They are responsible for implementing specific federal programmes, monitoring collection of federal taxes and expenditures of federal funds, and otherwise carrying out policies of the central government. A presidential representative is responsible for overseeing the activities of federal branches and ensuring their co-ordination with regional administrations. Whereas in theory, the regional branches should ensure the uniform administration of federal programmes, they are often heavily influenced by regional officials and reflect the preferences of regional officials.

An OECD survey of Russia in 2000, for example, found that, although the majority of fiscal agencies in the regions have a formal federal subordination, they also depend on regional and local administrations, giving rise to “a type of informal dual subordination.” (OECD, 2000, p. 118). The case studies discussed in Chapter 2 suggest that trade-related agencies have also been subject to regional influences, resulting sometimes in inconsistent implementation of trade policies. A key element of the reform of federal administration introduced by President Putin in May 2000 was strengthening federal control over the activities of regional branches of federal agencies (Risnes, 2001, pp. 49-50) (see discussion in Chapter 3).

## **Economic profiles of the regions**

The role of the regional governments in Russia's trade policy is likely to be influenced not only by the legal framework, but also by economic conditions in the regions and the general economic policy orientations of the regional administrations. Official Russian statistics provide extensive data on the involvement of the regions in international trade and investment and on general economic conditions in the regions. The relationship between various economic indicators and the regions' involvement in trade policy is often ambiguous, and the OECD project did not attempt to define precisely that relationship. Rather, it suggested possible effects of economic conditions on a region's approach to trade policy. The data presented provide an economic profile of the regions that highlights the large differences in levels of overall social-economic development, participation in international trade and investment, in the structure of their economies, and in their fiscal dependence on the central government.

### ***Overall social-economic development***

Russia's regions exhibit a wide disparity in overall social and economic development. The Russian Ministry of Economic Development and Trade has developed a set of indicators of economic and social conditions in the regions and uses them to track changes over time (Ministry of Economic Development and Trade, 2002). The indicators include measures of income per capita, trade and investment, employment, poverty, transportation, education and health care. The Ministry ranks the regions according to their overall development and divides them into five categories: high and above average, average, below average low, and extremely low. Annex Table A1 presents a small part of the Ministry's data for 2002 – measures of regional product per capita (a rough indicator of the population's economic welfare), foreign trade turnover per capita, and the overall rankings that the Ministry assigned to the regions.

The Ministry's "high and above average" group consists of 22 regions. They include a number of resource-rich and export-oriented regions, such as the Khanty-Mansi and Yamalo-Nenets Autonomous Areas, and Orenburg and Tyumen *oblasts*, the two major financial and economic centres – the cities of Moscow and St. Petersburg – and a number of industrially advanced regions such as Samara, Lipetsk, Moscow, Astrakhan and Chelyabinsk *oblasts*. The regions in this group have relatively high per capita incomes, low poverty rates, well-developed transportation and social services, and greater propensities towards foreign economic ties.

Seventeen regions were assigned “average” rankings by the Ministry. They are characterised by average per capita incomes but vary considerably in terms of social infrastructure. They are mostly northern regions, such as the Republics of Komi and Karelia, and Leningrad, Murmansk, Smolensk and Tver *oblasts*. They include few Siberian, Far Eastern and southern regions.

The Ministry assigns “below average” social-economic indicators to 14 regions in various parts of Russia. They have lower per capita incomes, lower rates of investment and poorer social infrastructures than the Russian average.

The Ministry ranks 23 regions as “low” and six as “extremely low” in social-economic development. Those ranked as low have economic and social indicators that are two to three times lower than the Russian average. There is a large gap between the lowest group and the Russian average, and, in recent years there has been a tendency for the gap to widen. Regions in these two groups are concentrated in the southern and central parts of Russia and include several national Republics and autonomous areas.

The regions appear to have been affected differently by changes since the break-up of the Soviet Union. Due to the types of industries they inherited, increasing transportation costs, and other factors, some regions have fared worse than others under market-oriented reforms. There is some evidence that income differences among the regions are growing (Maurseth, 2001, pp. 91-129).

These differences may account for some differences in the regional administrations’ approach to trade policy. Wealthier regions, for example may be more likely to promote exports or to subsidise domestic firms that face competition from imports simply because they have resources to do so. Higher incomes may also attract foreign companies seeking trade and investment opportunities. Poorer regions, on the other hand, may be more reluctant to promote open policies, preferring to protect existing producers from imports. They are often less attractive to foreign investors and have fewer producers who are competitive on world markets.

### ***Involvement of the regions in international trade and investment***

Russian regions also vary greatly in their degree of involvement in international trade and investment. There are large differences in the propensity to trade (see Annex Table A1). Table A2 shows the 20 regions that have attracted most of the foreign direct investment in Russia. The data demonstrate that relatively few republics are major players in international trade and investment. Twenty

regions in Russia, for example, account for about 80% of the country's exports. Similarly, the 20 regions listed in Table A2 account for approximately 85% of the total foreign direct investment in Russia during 1996-2000.

Generally, the tables show that the resource-rich regions and the major urban centres are more likely to trade and to attract foreign direct investment. The role of Moscow in Russia's foreign trade and investment is striking. The city and the surrounding Moscow Region alone account for about 30% of the country's exports and over 50% of all foreign direct investment in the country. The case study of Moscow, discussed in Chapter 2, shows that the city government has pursued an activist role both in promoting trade and investment and in helping local enterprises to compete. St. Petersburg, the surrounding Leningrad *oblast*, and some of the resource-rich areas of Siberia and the Far East are also major players in international trade and investment.

### ***Industrial structure***

Many regions have a highly concentrated industrial structure, specialising in one or only a few kinds of industrial output (Annex Table A3 shows the structure of industrial output for selected regions). The structure of industry often reflects the natural resource endowments of the regions or sometimes the decisions made by Soviet central planners, who showed a preference for large, highly integrated manufacturing enterprises. Many such enterprises (for example, those in the machine-building and food industries) have suffered from import competition, as the Russian economy has become more open. Others, such as enterprises in the fuel, non-ferrous metals, and timber industries have become successful exporters.

The policies of regional governments are likely to be influenced by the kinds of industries located within their borders. Two Russian researchers, Vladimir Mau and Vadim Stupin have explored the influence of different types of enterprises on the economic policies pursued by the regions (Mau and Stupin, 1997). Because industrial, financial and agricultural enterprises provide the bulk of regional budget revenue, export earnings, employment and the social safety net for the population, they are often the most politically influential agents in the regions. The authors suggest that the kind of economic policies followed by the regional government depends on whether the regional economy is dominated by large, uncompetitive enterprises, by large, efficient enterprises, or by small, less powerful enterprises. Politically powerful enterprises that are inefficient and non-competitive, for example, may successfully pressure the regional government to grant subsidies or to protect domestic producers from imports. A region that has mostly small, but generally efficient enterprises, on the other

hand, is more likely to follow more market-oriented policies. The government's main tasks in the economic realm might be to protect local firms from inefficient interference from Moscow bureaucracies, promote investment, develop infrastructure, and promote exports.

### ***Fiscal independence from central government***

Most Russian regions rely on transfers from the central government to finance various kinds of government programmes. The degree of dependence on the centre, however, varies widely (see Annex Table A4). Some regions, particularly those with major urban centres and resource-rich regions require a relatively low level of fiscal transfers. Others are highly dependent on fiscal transfers from the centre. The fiscal independence of the wealthier regions may give them greater bargaining power with the central government and a greater ability to assert the region's interests in trade policy. Conversely, the dependence of the poorer regions on fiscal transfers from the centre may give them little leeway to pursue their interests in trade policy: they have fewer resources to pursue activist industrial policies and less leverage to further their trade policy interests.

### **Economic policy orientation of the regional governments**

Regional governments have followed a wide spectrum of economic policies, from market oriented to highly interventionist. Some, for example, have allowed prices to fluctuate freely with relatively little interference in the market, while others have intervened to administer prices, especially for vital consumer goods or industrial inputs. Some regional governments have subsidised relatively heavily, while other governments have given relatively few subsidies to consumers and producers. Some have used their authority to tax, to issue licences or otherwise regulate their economies in a relatively open, non-discriminatory manner, while others have regulated to protect vested interests or pursue other economic and social goals.

It is likely that regional governments that have pursued more market-oriented policies have also pursued relatively open trade policies, allowing consumers and producers to buy products based on price and quality, rather than favouring regional over imported products. Similarly, governments that pursue open-market policies are less likely to intervene in the decisions of domestic producers to export. To the extent that the central government is promoting a trade policy that is consistent with multilateral disciplines, the more liberal

regional governments are likely to reinforce, rather than undermine federal policies.

While it is difficult to categorise the regional governments as market-oriented or interventionist, there are some useful indicators. One study, for example, has described the development of an “internal border” that separates the “Red Belt” from the rest of Russia (Berkowitz and DeJong, 1999) (the authors define the Red Belt as those regional entities, mostly in the south of Russia, which voted against the incumbent reformist coalition in favour of the Communist Party during the 1996 presidential elections). They use the term internal border because it delineates a sharp difference in attitudes towards economic reform: regions within the Red Belt have lagged behind the rest of Russia in adopting policies to liberalise prices and eliminated subsidies. They find evidence of such a border in price differences between the Red Belt and the rest of Russia that cannot be explained by distance and transportation costs alone. They suggest that the price differences are due in part to interventionist policies, such as administered prices or subsidies, of the regions within the Red Belt.

Another study by the Territorial Administration of the Russian President categorised the regions as “conservative” or “liberal” according to their propensity to regulate prices and subsidise (Lavrov, 1999) (see Table 1.1). In the terminology of the author of the report, conservative regions are those that heavily regulate prices and subsidise, and liberal regions are those that avoid regulating prices and subsidising. The rows of Table 1.1 rank the regions according to their propensity to regulate prices (with the liberal regions in the top row and the conservative regions in the bottom row). The columns rank the regions according to their propensity to subsidise (with the liberal regions in the left column and the conservative, in the right column).

According to the author, the lower right hand corner of Table 1.1 clearly defines the most conservative anti-market regions. The table gives a more confused picture of liberal, pro-market regions, however. The upper left hand corner groups the liberal regions (such as Moscow, Saint Petersburg, Nizhnigorod, Perm, Vladimir, and possibly Novgorod and Vologda *oblasts*) together with poorer, less developed regions (Dagestan, Altai Republic, and Tuva). The author suggests that the latter may not be liberal by choice: lacking the resources to subsidise, or otherwise influence the economy, they may simply leave the economy alone out of necessity. He also acknowledges that the criteria he uses do not place some regions that are considered pro-reform, such as Sverdlovsk and Chitinsk *oblasts* and Krasnoyarsk *krai*, in the appropriate liberal corner.

**Table 1.1. Typology of regions according to economic policies**

Regulation of prices	Subsidising the Economy		
	Low	Medium	High
Low	Moscow City; Vologda, Pskov, Novgorod, Kirov, Samara, Leningrad, Kurgan, and Sakhalin, <i>oblasts</i> ; Dagestan, North Osetia, Altai Republic	Kostrom, Ryazan, Perm, Tyumen, Magadan, and Kaliningrad <i>oblasts</i> ; Komi Republic	Moscow, Tver, Saratov, Kemerov, Tomsk, and Kamchatka <i>oblasts</i> ; Krasnoyarsk <i>krai</i> ; Adygea
Medium	St. Petersburg; Murmansk, Vladimir, Nizhegorod, and Chitinsk <i>oblasts</i> ; Tuva, Jewish Autonomous Republic	Arkhangelsk, Voronezh, Tambov, Sverdlovsk Penza, and Chelyabinsk <i>oblasts</i> , Altai <i>krai</i> ; Mariy El, Kalmykiya	Ivanov, Tula, Yaroslav, and Novosibirsk <i>oblasts</i> ; Primorskiy <i>krai</i> ; Kareliya, Tatarstan, Khakhasiya
High	Belgorod, Orenburg, and Rostov <i>oblasts</i> ; Stavropol <i>krai</i> ; Kabardino-Balkariya	Bryansk and Volgograd <i>oblasts</i> ; Krasnodar <i>krai</i> , Mordoviya, Chuvashiya, Udmurtiya, Buryatiya, Yakutia	Kaluga, Orel, Smolensk, Kursk, Lipetsk, Ulyanovsk, Irkutsk <i>oblasts</i> ; Khabarovsk <i>krai</i> ; Bashkortostan, Karachaevo-Cherkessiya

Source: Lavrov, 1999.

Similarly, the OECD Economic Survey in 1995 described two kinds of economic orientations among the regions: extrovert and introvert. Extrovert regions, according to the Survey authors include resource-rich regions in sparsely populated northern regions of European Russia and Siberia, and major commercial centres and major points of entry (Moscow, St. Petersburg, Arkhangelsk, Astrakhan, Kaliningrad, Khabarovsk, Murmansk, Nakhodka, Rostov, and Vladivostok). Introvert regions include those that are dominated by the military-industrial complex (parts of central European Russia and the Urals) and agro-industrial regions, which have both an industrial base and self-sufficiency in food production (parts of central European Russia and southern Siberia) (OECD, 1995, pp. 52-54).

According to the OECD Survey, extrovert regions generally favour liberal economic policies, especially in the foreign trade sphere, because they benefit from Russia's successful integration into the world market. The agro-industrial regions tend to resist market reforms and favour policies that protect local producers. Regions dominated by traditional heavy and arms-producing

industries may pursue various policies. Some promote market reforms with the goal of encouraging foreign investment to help local industries restructure. Some try to provide subsidies to local industries, while others promote economic integration with foreign partners or with partners in the resource-rich regions.

Such categorisations of the regions are useful, but have some limitations. They lack precision and represent only a snapshot of a rapidly changing situation. (Table 1.1, for example, is based on data from the mid-1990s). There is evidence that economic policies in the regions change frequently, and that today's conservative government is often tomorrow's liberal reformer. Economic conditions in the regions are also changing significantly and the general relationship between the federal and sub-federal governments is undergoing reform.

### **General observations on Russia's regions**

The data presented in this chapter suggest some general criteria for categorising the 89 subjects of the Russian Federation and defining the differences among them. There are, for example, clear differences in the legal environments, as defined in treaties and agreements that the regional governments have negotiated with the federal government. There is an abundance of statistical data (of which only a small sample is presented here) that describe the different economic environments in which the regional governments operate. In particular, the data show that there are relatively rich and poor regions; a few regions that are actively engaging in the international economy, and many that are not; regions with different industrial structures; and regions with varying degrees of fiscal dependence on the central government. There is also some useful research on the economic policy orientation of the regional governments, suggesting ways to categorise them according to their basic approaches to the market economy. Generally, the evidence presented in this chapter confirms the picture of variability in the regions that is described in the OECD case studies and in other research on Russia's regions.<sup>5</sup>

With respect to the legal and political environment in which regional governments operate, it is important to keep in mind the differences between

---

<sup>5</sup> Representatives from the regions at the OECD's March 1999 Round Table in Novgorod, for example, emphasised that the regions differ considerably in their economic performance and external exposure, and that it is difficult to generalise on the basis of a few case studies. See also Bradshaw and Hanson (1998).

written laws and the apparently very prevalent informal arrangements that may be more important determinants of the regional governments' activities in trade policy. These informal arrangements may be particularly important in regulatory activities at the local level. There are also important differences in the political character of the regions and the role of different personalities among the regional elites in relations between the regions and the central government.<sup>6</sup> During Russia's transition from the unitary Soviet system to a federation, political relations have been in a state of flux, giving regional leaders a greater opportunity to pursue their own interests.

---

<sup>6</sup> Bradshaw and Hanson (1998), *op. cit.*, p. 292. The authors conclude that "the differences in political character of Russian regional regimes are hard to exaggerate."

## ANNEX

**Table A1. Comprehensive ranking of socio-economic development of subjects of the Russian Federation: selected data, 2002**

Ranking	Region	Regional Product per capita (RUB 1000)	Trade Turnover per capita (USD)	Comprehensive Rating*
Russian Average		61.0	807	0.0
<b>Regions with high and above average level of development</b>				
1	City of Moscow	101.8	3518	29.5
2	St. Petersburg	55.2	1321	19.0
3	Samara <i>oblast</i>	89.7	878	12.7
4	Lipetsk <i>oblast</i>	77.6	1458	9.4
5	Moscow <i>oblast</i>	64.1	745	8.3
6	Astrakhan <i>oblast</i>	71.1	902	7.8
7	Cheliabinsk <i>oblast</i>	71.7	762	7.7
8	Sverdlovsk <i>oblast</i>	63.8	914	7.4
9	Belgorod <i>oblast</i>	56.6	1017	6.8
10	Tatarstan Republic	76.3	613	6.2
11	Vologda <i>oblast</i>	83.5	1757	5.2
12	Kaliningrad <i>oblast</i>	43.7	1327	5.1
13	Khanty-Mansi aut. obl.	228.1	6110	4.3
14	Bashkortostan Republic	78.8	617	3.8
15	Perm <i>oblast</i>	99.5	575	3.8
16	Yamalo-Nenets aut. obl.	291.1	73	3.6
17	Yaroslav <i>oblast</i>	52.1	530	3.4
18	Orenburg <i>oblast</i>	64.7	681	3.3
19	Novgorod <i>oblast</i>	50.2	767	2.7
20	Tyumen <i>oblast</i>	68.7	149	2.4
21	Tula <i>oblast</i>	50.9	623	2.1
22	Krasnoyarsk <i>krai</i>	82.9	1560	1.8

(cont.)

**Table A1. Comprehensive ranking of socio-economic development of subjects of the Russian Federation: selected data, 2002**

Ranking	Region	Regional Product per capita (RUB 1000)	Trade Turnover per capita (USD)	Comprehensive Rating*
<b>Regions with average level of development</b>				
23	Komi Republic	67.9	704	-1.3
24	Sakhalin <i>oblast</i>	77.1	1589	-1.3
25	Tomsk <i>oblast</i>	59.8	770	-2.7
26	Nizhniy Novgorod <i>oblast</i>	48.7	426	-2.8
27	Ryazansk <i>oblast</i>	47.6	308	-2.9
28	Leningrad <i>oblast</i>	59.0	611	-3.2
29	Smolensk <i>oblast</i>	33.9	500	-4.2
30	Orel <i>oblast</i>	69.1	233	-4.8
31	Tver <i>oblast</i>	45.1	123	-4.8
32	Karelia Republic	47.2	1170	-4.8
33	Kemerovo <i>oblast</i>	46.4	1087	-5.0
34	Udmurt Republic	54.0	534	-5.8
35	Kaluga <i>oblast</i>	45.5	292	-6.8
36	Sakha Republic	71.4	492	-6.8
37	Voronezh <i>oblast</i>	45.0	176	-7.2
38	Murmansk <i>oblast</i>	49.4	1969	-7.3
39	North Ossetia-Alania Rep.	41.7	241	-7.3
40	Khabarovsk <i>krai</i>	59.4	740	-8.0
41	Tambov <i>oblast</i>	49.4	109	-9.7
42	Krasnodar <i>krai</i>	46.8	171	-9.8

(cont.)

**Table A1. Comprehensive ranking of socio-economic development of subjects of the Russian Federation: selected data, 2002**

Ranking	Region	Regional Product per capita (RUB 1000)	Trade Turnover per capita (USD)	Comprehensive Rating*
<b>Regions with below average level of development</b>				
43	Nenets aut. <i>Okrug</i>	131.5	0	-11.2
44	Novosibirsk <i>oblast</i>	38.1	357	-11.3
45	Rostov <i>oblast</i>	37.0	237	-11.4
46	Irkutsk <i>oblast</i>	55.1	1079	-12.5
47	Magadan <i>oblast</i>	40.5	836	-12.5
48	Stavropol <i>krai</i>	42.2	153	-13.0
49	Primorskiy <i>krai</i>	40.7	882	-14.5
50	Saratov <i>oblast</i>	40.5	285	-14.7
51	Kamchatka <i>oblast</i>	35.7	2277	-15.4
52	Kursk <i>oblast</i>	39.0	378	-15.6
53	Kabardino-Balkarsk Rep.	53.6	29	-15.7
54	Arkhangelsk <i>oblast</i>	47.0	588	-16.3
55	Pskov <i>oblast</i>	34.9	235	-16.3
56	Kostrom <i>oblast</i>	36.5	128	-17.9
57	Adygeya Republic	28.9	25	-18.2
58	Volgograd <i>oblast</i>	38.4	406	-18.3
59	Khakasiya Republic	42.2	1264	-19.8
<b>Regions with low level of development</b>				
60	Chuvash Republic	29.9	113	-20.1
61	Vladimir <i>oblast</i>	41.5	264	-20.3
62	Omsk <i>oblast</i>	29.9	533	-21.6
63	Kalmykiya Republic	20.1	271	-22.4
64	Kirov <i>oblast</i>	40.3	267	-22.5

(cont.)

**Table A1. Comprehensive ranking of socio-economic development of subjects of the Russian Federation: selected data, 2002**

Ranking	Region	Regional Product per capita (RUB 1000)	Trade Turnover per capita (USD)	Comprehensive Rating*
<b>Regions with low level of development (cont.)</b>				
65	Ulyanov <i>oblast</i>	32.0	157	-24.8
66	Amur <i>oblast</i>	29.6	104	-26.0
67	Evenki aut. <i>oblast</i>	31.9	0	-26.4
68	Mordoviya Republic	33.2	70	-27.0
69	Bryansk <i>oblast</i>	26.5	268	-27.4
70	Ivanov <i>oblast</i>	19.2	299	-27.8
71	Buryatiya Republic	36.6	202	-28.4
72	Penza <i>oblast</i>	28.9	39	-28.6
73	Altai Republic	27.1	61	-29.7
74	Jewish autonomous <i>oblast</i>	28.9	27	-30.2
75	Chukotka aut. <i>okrug</i>	27.5	294	-30.7
76	Mariy El Republic	27.0	76	-31.3
77	Taimyr (Dolgano-Nenets)	27.3	0	-32.3
78	Altai <i>krai</i>	24.7	151	-32.6
79	Karachayevo - Circassian R.	19.4	40	-34.7
80	Kurgan <i>oblast</i>	25.9	360	-35.8
81	Chitinsk <i>oblast</i>	26.0	172	-37.4
82	Dagestan Republic	22.0	100	-40.0
<b>Regions with extremely low level of development</b>				
83	Ust-Ordyn Buryat aut. okr.	41.7	0	-40.3
84	Komi-Permyak aut. <i>okrug</i>	31.2	0	-40.8
85	Koryak aut. <i>okrug</i>	27.5	45	-41.5
86	Tuva Republic	14.7	0	-48.2
87	Aginsk-Buryat aut. <i>okrug</i>	10.2	130	-49.8
88	Ingushetiia	8.8	64	-50.6

\*The comprehensive rating is based on values assigned to a number of socio-economic factors, including per capita income, volume of investments, trade turnover per capita, financial conditions, employment, and infrastructure. The number indicates how far above or below the Russian average each region is.

Source: Ministry of Economic Development and Trade. <http://www.economy.gov.ru>

**Table A2. Regions with the largest volume of foreign direct investment**

<b>Region</b>	<b>Cumulative total 1996-2000 (thousand USD)</b>	<b>Share of total Russia, 1996-2000 (%)</b>
Moscow	8 213 456	41.43
Moscow Region	1 717 156	8.66
Krasnodar <i>krai</i>	1 645 123	8.30
Sakhalin <i>oblast</i>	1 492 386	7.53
St. Petersburg	940 957	4.75
Leningrad <i>oblast</i>	651 490	3.29
Novosibirsk <i>oblast</i>	513 394	2.59
Samara <i>oblast</i>	419 613	2.12
Sverdlovsk <i>oblast</i>	352 722	1.78
Tyumen <i>oblast</i>	313 739	1.58
Volgograd <i>oblast</i>	258 692	1.30
Kaluga <i>oblast</i>	233 270	1.18
Primorskiy <i>krai</i>	222 823	1.12
Cheliabinsk <i>oblast</i>	204 085	1.03
Magadan <i>oblast</i>	187 272	0.94
Nizhni Novgorod <i>oblast</i>	167 324	0.84
Khanty-Mansi Aut. Area	150 308	0.76
Orel <i>oblast</i>	149 751	0.76
Khabarovsk <i>krai</i>	147 016	0.74
Yamalo-Nenets Aut. Area	146 814	0.74

Source: *Ekspert*, No 41, 5 November 2001.

**Table A3. Structure of industry for selected regions (output as % of total industrial output)**

Region	Electrical energy	Fuel industry	Ferrous Metallurgy	Non-ferrous Metallurgy	Chemical and Petro-chemical industry	Machine-building industry and metal working industry	Timber industry, wood-working industry, Pulp and paper industry	Construction Materials producing industry	Light industry	Food industry
Republic of Karelia	13.9	-	17.0	5.5	0.1	6.9	41.8	2.3	0.4	10.1
Komi Republic	15.4	56.5	0.1	-	-	1.9	16.4	2.3	1.4	4.4
Archangel Region	17.5	7.8	0.1	0.1	0.2	16.8	44.3	2.3	0.4	8.5
Vologda Region	10.2	-	55.8	0.3	11.8	5.2	5.8	1.4	0.6	7.0
Murmansk Region	22.6	0.1	9.9	32.8	10.9	3.9	0.4	1.0	0.3	17.1
St. Petersburg	13.6	-	2.2	1.4	4.6	34.8	3.0	2.8	2.7	28.5
Novgorod Region	15.0	-	4.3	0.1	34.4	9.2	13.0	3.3	0.4	17.8
Vladimir Region	18.9	0.2	0.5	2.9	4.2	41.1	3.5	3.8	5.6	11.4
Moscow	19.2	2.2	0.9	0.8	4.6	25.0	2.1	5.8	2.6	31.7

(cont.)

**Table A3. Structure of industry for selected regions (output as % of total industrial output)**

Region	Electrical energy	Fuel industry	Ferrous Metallurgy	Non-ferrous Metallurgy	Chemical and Petro-chemical industry	Machine-building industry and metal working industry	Timber industry, wood-working industry, Pulp and paper industry	Construction Materials producing industry	Light industry	Food industry
Nizhni Novgorod Region	10.3	2.7	4.6	0.4	7.8	51.9	5.1	2.0	1.6	9.3
Republic of Kalmykia	45.3	21.0	-	-	-	4.4	1.0	14.9	0.7	5.5
Republic of Tatarstan	27.4	22.9	0.4	-	20.4	12.5	1.4	2.5	1.3	8.3
The Samara Region	12.7	7.1	0.1	2.2	9.3	53.3	0.4	3.1	0.3	9.9
Republic of Bashkortostan	14.4	33.0	2.2	2.2	13.8	11.8	1.8	4.1	2.3	9.9
The Chelyabinsk Region	14.5	1.9	46.8	4.7	1.2	17.2	1.0	4.4	0.5	5.5
The Tyumen Region	10.9	81.8	-	-	0.7	2.2	0.7	1.0	0.2	1.8
The Primorie Territory	25.7	3.4	0.2	1.8	1.7	7.3	5.2	4.2	0.6	46.4
The Amur Region	45.2	11.2	0.2	13.1	-	4.7	4.6	4.8	0.1	10.8

(cont.)

**Table A3. Structure of industry for selected regions (output as % of total industrial output)**

Region	Electrical energy	Fuel industry	Ferrous Metallurgy	Non-ferrous Metallurgy	Chemical and Petro-chemical industry	Machine-building industry and metal working industry	Timber industry, wood-working industry, Pulp and paper industry	Construction Materials producing industry	Light industry	Food industry
The Kamchatka Region	24.8	0.4	-	14.9	-	4.4	0.9	1.2	0.2	49.0
The Magadan Region	30.1	2.9	-	52.0	-	2.2	0.2	1.1	0.1	10.7
The Sakhalin Region	19.3	31.1	-	0.4	-	2.6	4.2	1.1	0.1	40.5

Source: Prepared on the basis of information from "Regions of Russia. GosCOMSTAT of Russia. Official edition. - Moscow, 1999."

**Table A4. Budgetary expenditures as percentages of local budgetary revenues: selected regions, 2000**

Region	Percentage
<b>Examples of Fiscally Independent Regions</b>	
Tyumen <i>oblast</i>	96.7
Krasnoyarsk <i>krai</i>	97.4
Vologda <i>oblast</i>	97.8
Moscow	107.4
St. Petersburg	116.8
Astrakhan <i>oblast</i>	119.7
Khanty-Mansi Autonomous <i>okrug</i>	129.4
Tatarstan Republic	133.4
Kaliningrad <i>oblast</i>	136.0
<b>Examples of Fiscally Dependent Regions</b>	
Magadan <i>oblast</i>	226.5
Karachayevo-Circassian Republic	266.5
Komi-Permyak Autonomous <i>okrug</i>	407.6
Koryak Autonomous <i>okrug</i>	428.7
Chukotka Autonomous <i>okrug</i>	453.3
Ust-Ordyn Buryat Autonomous <i>okrug</i>	614.7
Dagestan Republic	616.6
Aginsk Buryat Autonomous <i>okrug</i>	648.8
Tuva Republic	660.0
Evenki Autonomous <i>oblast</i>	971.9

Source: *Ekspert*, No. 41, 5 November 2001.

## REFERENCES

- Berkowitz, D. and D. N. DeJong (1999), "Russia's Internal Border", *Regional Science and Urban Economics*, No. 29, pp. 633-649.
- Bradshaw, M. J. and P. Hanson (1998), "Understanding Regional Patterns of Economic Change in Russia", *Communist Economies and Economic Transformation*, Vol. 10, No. 3, pp. 288-90.
- Honneland, G and H. Blakkisrud, (eds.) (2001), *Centre-Periphery Relations in Russia: The Case of the Northwestern Regions*, Ashgate Publishing Company, Aldershot.
- Kahn, J. (2000), "The Parade of Sovereignties: Establishing the Vocabulary of the New Russian Federalism", *Post-Soviet Affairs*, Vol. 16, January-March 2000, pp. 58-89.
- Lavrov, A. (1999), "O regulirovanii ekonomicheskoy politiki sub'ektov Rossiyskoy Federatsii.", Office of the President of the Russian Federation, Territorial Administration, Mimeo, Moscow.
- Mau V. and V. Stupin (1997), "The Political Economy of Russian Regionalism", *Communist Economies and Economic Transformation*, Vol. 9, No. 1, pp. 5-25.
- Maurseth, P. B. (2001), "Russians Regions in Transition: Centralisation through Decentralisation", in G. Honneland and H. Blakkisrud (eds.), *Centre-Periphery Relations in Russia: The Case of the Northwestern Regions*, Ashgate Publishing Company, Aldershot, pp. 91-129.
- Ministry of Economic Development and Trade (2002), "Kompleksnaia otsenka urovnya sotsial'no-ekonomicheskogo razvitiia sub'ektov Rossiyskoy Federatsii v 2000 i 2002 godakh," available at [www.economy.gov.ru/socec\\_sub\\_2000-02.html](http://www.economy.gov.ru/socec_sub_2000-02.html)

OECD (Organisation for Economic Co-operation and Development) (1995), *OECD Economic Surveys: The Russian Federation 1994/1995*, September 1995, OECD, Paris.

OECD (1997), *OECD Economic Surveys: Russian Federation 1996/1997*, Vol. 1997/Supplement 5, December 1997, OECD, Paris.

OECD (2000), *OECD Economic Surveys: Russian Federation 1999/2000*, Vol. 2000/7, March 2000, OECD, Paris.

Radio Free Europe/Radio Liberty (2002), *Russian Political Weekly*, Vol. 2, No. 43, 19 December 2002.

Risnes, B. (2001), "Relations between Moscow and the Regions of Northwestern Russia – The Legal Aspect", in G. Honneland and H. Blakkisrud (eds.), *Centre-Periphery Relations in Russia: The Case of the Northwestern Regions*, Ashgate Publishing Company, Aldershot.



## *Chapter 2*

### **TRADE-RELATED LEGISLATIVE AND ADMINISTRATIVE PRACTICES IN SEVERAL RUSSIAN REGIONS: A SYNTHESIS OF THE CASE STUDIES**

**Abstract.** A series of case studies conducted by OECD confirms the active involvement of Russia's regional governments in trade policy. They identify a variety of regional and local laws and administrative practices, such as subsidies to local producers, price controls, product certification, government procurement rules, and licensing that have important trade effects. The case studies also confirm that regional branches of federal agencies, particularly customs agencies, exercise a significant degree of discretionary authority, leading to differences in the way national policies are administered. In many cases, trade-related policies in the regions discriminate against foreign producers and producers in other regions, thus distorting trade flows and undermining federal efforts to safeguard a single economic and legal space in Russia.

## Introduction

Russia's federation members have enacted legislation and made administrative decisions on a wide range of economic matters related to trade policy. To understand better how these measures might affect Russia's trade and its international trade commitments, particularly those that it is negotiating in the WTO, the OECD commissioned several regional case studies. Over a five-year period, Russian consultants<sup>1</sup> carried out a series of detailed case studies on trade-related legislative and administrative practices in selected Russian regions (St. Petersburg, Novgorod Region, Sverdlovsk region, Primorskiy *krai*, and Moscow). Perhaps reflecting the large differences in legal, economic and political environments among the regions, regional governments have taken various approaches to trade policy. Regional representatives at an OECD Round Table in Novgorod, 11-12 March 1999, stressed that regional legislation and administrative practices differ widely among the Russian Federation's 89 members, and that one must be cautious in making general conclusions from a small number of case studies.

While it is difficult to draw general conclusions about current practices in all Russian regions from such a limited sample, a strong case can be made for the sample being sufficiently well chosen so as to gain some valid insights. First, the sample contains several of the most important regional economies. Moscow, with its strong industrial and service branches, accounts for a large share of Russian GDP, and Sverdlovsk ranks among the top resource-rich Russian regions. Second, it is geographically diverse, including two major trade and shipping centres, St. Petersburg and Primorskiy *krai*, located at either end of the Russian Federation. Finally, it contains one region that is neither resource-rich, nor a major economic player at the national level, Novgorod. This region has chosen to compensate for its relative lack of natural resources by implementing economic reforms and market initiatives to attract FDI. One major shortcoming

---

<sup>1</sup> The case studies carried out by Russian consultants were issued as OECD documents and discussed at meetings of the Working Party of the Trade Committee and at Round Tables in Novgorod (11-12 March 1999) and Vladivostok (11-12 October 2001). The principal consultants conducting the surveys were: Ms. Lyubov G. Yerigo and Ms. Irina Selyeznaya (St. Petersburg); Mr. Sergey V. Slupitskiy (Novgorod); Dr. Demyan Bakhrakh and Dr. Sergey M. Kadochnikov (Sverdlovsk region); and Dr. Yelena Danilova (Moscow city and Primorskiy *krai*). In addition, a study on the Bashkortostan Republic by Rafael Fattakhov was issued as a room document at an OECD Round Table in Novgorod, 11-12 March 1999.

of the sample might be its exclusion of any region from Russia's "rust belt", where uncompetitive industries dominate the local landscape, municipalities struggle with heavy social costs and regional administrations sometimes question market initiatives taken at the national level.

The case studies examined several kinds of trade-related policies. Formal "border" measures appear to be rare and limited mostly to the period of the 1998 financial crisis. Other measures, such as customs procedures, competition policy, standards and certification, and protection of intellectual property rights are primarily national policies that are carried out by regional branches of federal agencies, or in some cases implemented by regional bodies. A third set of policies – financial aid and subsidies, government procurement, investment and trade promotion, control of natural resources, environmental protection, and licensing – are related to formal powers and responsibilities assigned to sub-national governments by the Constitution or federal laws.

The case studies identified certain policy areas – customs administration, product certification, government procurement, financial aid to producers, competition policy and licensing – in which different regional approaches appear to have a significant influence on interregional and international trade. The following discussion provides a discussion of the international trade disciplines that are relevant to these and other policy areas and provides examples from the case studies of how Russia's sub-national governments have enacted and implemented such policies (see Table 2.1 for a summary of the key trade-related issues cited in the OECD case studies).

### **Protectionism through regional "border" measures**

The OECD's regional surveys began in 1998, the same time that the Russian Federation experienced a major financial crisis. During the onset of the crisis the Russian press reported numerous cases in which regional officials took measures, such as banning or limiting interregional sales of food products, to protect their local markets. At that time trade liberalisation efforts in Russia seemed more focused on maintaining open regional markets for firms from other Russian regions than on achieving mutually open markets on an international level. The shocks of the financial crisis proved relatively short-lived, and regional officials quickly realised that a loss of Russia's unified economic space through a proliferation of internal trade barriers would lead to increased economic inefficiency and a general lowering of overall living standards. A recent OECD study noted that "Societies typically pay a high price when they resort to protection. Protection raises the price of both imports and domestic products, which restricts consumer choice and places the heaviest

burden on those in society who are least well off. It slows change and raises its cost, inflicts damage on exporting firms by making them less competitive, and almost invariably translates into greater long-term hardship.” (OECD, 1998, p. 12). While this OECD study drew on economic research on international trade, the logic applies equally to liberalisation on a national level.

**Table 2.1: Key trade-related issues raised in OECD surveys of Russian sub-Federal policies**

	St. Petersburg 1998	Sverdlovsk obl. 1998	Novgorod obl. 1998	Primorskiy <i>Krai</i> 2000	Moscow City 2001	St. Petersburg 2002
Significant influence of regional customs authorities over commodity classifications	X			X	X	X
Lack of clear mutual recognition of product certification by regional product standards and certification authorities	X					
Restrictions on companies able to supply state orders	X	X		X	X	
Regional financial aid measures that may distort trade		X		X	X	
Limited power of regional antimonopoly bodies	X		X			X
Regional licensing procedures for some service sectors differ from federal requirements or lack transparency				X	X	

Source: Case studies.

The internal Russian barriers to trade with other regions that were spawned by the financial crisis, such as quotas on sales to outside purchasers or taxes on goods taken out of the region, were short lived. Some protectionist initiatives never went beyond a general discussion stage. The case studies cited only one such measure – a 1998 draft law “On the introduction of charges for poultry products imported into Sverdlovsk *oblast*”. The law would have imposed charges on poultry imports from both other countries and other Russian regions. A mass media campaign against the adoption of this law, launched by the Consumers’ Society of the Sverdlovsk region, helped to defeat it: the Draft Law was rejected by the Legislative Convention of the Sverdlovsk region.

Later regional surveys uncovered no cases of formal interregional border barriers.<sup>2</sup> One might safely conclude that most Russian regional administrators have largely accepted the logic of having a unified Russian economic space. There have, however, been continuing cases of discrimination against producers in other regions through other means, such as discriminatory licensing procedures, subsidies and government procurement policies.

## **Customs administration**

### ***Multilateral trade rules***

The most important rules in the area affecting customs administration consist in the principles of transparency and predictability, tariff binding, customs valuation and rules of origin. The WTO requires the transparency of national laws, governmental regulations and measures to allow for ascertaining compliance with contractual obligations and commitments. Article X of the GATT 1994 provides that all laws, regulations, judicial decisions and administrative rulings of general application should be published promptly. This article also mentions those issues specifically requiring a transparency obligation: customs issues, such as classification and valuation of products; custom duty rates, taxes and other charges; requirements, restrictions or prohibitions on imports or exports, etc.

Customs valuation is one of the most important customs-related disciplines within the framework of the WTO. The agreement aims for “a fair, uniform and neutral system for the valuation of goods for customs purposes” that reflects

---

<sup>2</sup> Some regions have discriminated against other regions in their programmes for state purchases. See below section on Government Procurement. Survey results below.

market realities. The agreement provides a set of valuation rules, expanding and giving greater precision to the provisions on customs valuation in the original GATT” (WTO, 2001).<sup>3</sup> Since the application of national customs rules caused frequent disputes among trading framework within which customs agencies must work. These rules aim to avoid the application of national customs regulations in a manner that creates unnecessary trade barriers or discriminates among trading partners.

The WTO also has an Agreement on Rules of Origin, which establishes guidelines on determining where an imported product was made. These “Rules of Origin” are important when a customs administration is required to enforce policies relating to preferential tariffs, such as exist in many free trade agreements, or in other trade discrimination policies such as anti-dumping actions or countervailing duties. Under the WTO Agreement on the Rules of Origin, members must ensure that their rules of origin are transparent; that they do not restrict or distort trade; that they are administered in “a consistent, uniform, impartial and reasonable manner”; and that they are based on a positive standard (in other words, they should state what does confer origin rather than what does not) (WTO, 2001).

### *Practices in Russia’s regional customs offices*

While the Russian Constitution gives federal authorities jurisdiction over tariff policy, regional customs departments have some discretionary power in applying these federal regulations. In helping to define the legitimate actions of regional customs authorities, the State Customs Committee spelled out that regional authorities have the responsibility to:

- Develop measures to improve customs procedures and control.
- Ensure timely and full customs payments.
- Prepare proposals to improve the implementation of the customs policy of the Russian Federation, with due considerations of the special features of the individual customs regions.

---

<sup>3</sup> The principal rules are to be found in the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.

- Make decisions on allowing delays in customs payments and on tariff and other customs preferences.
- Co-ordinate financial inspections of exporters, importers, transport companies, customs brokers and others involved in customs operations, issue and withdraw licences for persons involved in customs operations.
- Classify goods, estimate their values and define the country of origin.<sup>4</sup>

Some of these responsibilities can be far-reaching, and widely varying interpretations can lead to national inconsistencies. The empowerment of regional customs agencies to make commodity classifications for a number of goods may, for example, translate into giving them the authority to determine tariff rates. Differing classifications among the regions may mean differing tariff rates are applied to the same goods brought into Russia. One case study noted that there has been a tendency in recent years for more decisions on commodity classification to be made at the regional level, suggesting that the likelihood of an erosion of uniform tariff rates could be increasing.<sup>5</sup> Business representatives at an OECD-sponsored round table in Vladivostok generally agreed with this assessment. Some of them suggested that such regional classification differences might well explain why almost all goods entering ports in the Far East are shipped to Moscow to clear customs, even if they are destined for use in the Far East.<sup>6</sup> Another referred to the well-known phenomenon of the “black corridor” – the vast majority of Russian imports (even from Asian trade partners) flowing through western ports and ultimately being distributed by Moscow-based businesses. The prices often charged for Asian goods coming through the “black corridor” were often lower than for the same goods coming directly to Asian Russia, strongly suggesting that the in passing through the “black corridor” goods avoided normal tariff rates.<sup>7</sup> One business representative suggested that the electronic clearance system, currently

---

<sup>4</sup> Common regulation on the Regional Customs Administration of the Russian Federation, State Customs Committee Order No. 12, 10 January 1996.

<sup>5</sup> Ibid.

<sup>6</sup> Vladivostok Roundtable discussion. Other participants suggested that Moscow’s superior infrastructure could also explain this phenomenon.

<sup>7</sup> Primorskiy *krai* case study.

in operation between the Russian Far East and the West Coast of the United States, should be extended to help reduce illegal customs practices.

While it is difficult to estimate to what degree the regional differences in applying federal customs regulations have undermined the development of uniform federal policies, the survey of the Moscow City region suggests that these regional differences remain problematical. It found that the independence of the regional customs administrations in implementing customs regulations could lead to different kinds of implementation both among the regional administrations and among subordinate bodies in the same region. The independence of regional customs offices sometimes results in inconsistency and lack of transparency in the administration of customs. In the Moscow region, for example, subordinate bodies have different procedures for clearance of exports and imports of licensed goods. There have also been inconsistencies in customs valuation: an analysis by a department of the State Customs Committee found that certain importers were regularly undercharged for imported goods.

The same survey pointed out that regional customs administrations also have a major role in administering the federal requirement that exporters surrender a certain percentage of their export earnings. The system of monitoring the surrender of export earnings involves complicated procedures that may result in subjective decisions by regional customs authorities and delays and increased expenses for exporters. An analysis by federal authorities suggests that this oversight function has at times improperly burdened Russian exporters.

Regional customs agencies are also empowered to issue orders, directives and instructions that guide how special customs privileges are implemented. Regional customs agencies have supplemented the federal customs transit rules by issuing their own instructions, orders and letters.<sup>8</sup> For example, a St. Petersburg Customs Office Instruction stipulates the legal procedures for collecting customs duties, the period for which preferences are given, and the particular conditions for invoking preferences for imported goods and transport vehicles that are part of a foreign investor's contribution to the charter capital of an enterprise. Similarly Moscow customs authorities have imposed a number of additional criteria for determining whether this type of import can enter duty free, which stands in direct contradiction to the federal decree.

---

<sup>8</sup> St. Petersburg case study.

Other separate rulings by the St. Petersburg Customs Office include: the “effective monitoring of the legitimacy of applying customs duty exemptions”, the procedures “for granting privileges to natural persons” or “periodic customs duty exemptions” to representative offices of foreign firms, banks and organisations. In at least one instance, the St. Petersburg Customs Administration suspended the customs clearance procedures for custom duties arrears by a regional decree thereby establishing a procedure not foreseen in the Russian Federation Customs code.

## **Competition policy**

Many observers have noted that the removal of border trade barriers may sometimes fail to increase market access if not accompanied by action on monopoly or market dominance issues. For example, if local producers control distribution channels, they may be able to prevent the sale of imported products in their home markets; restrictive entry control through licensing and certification by self-regulating professions may lead to a limited market access; public or private monopoly may become an instrument of protection, favouring local providers in their purchasing decisions.

A WTO report, for example, observed that “As government barriers to trade and investment have been reduced, there have been increasing concerns that the gains from such liberalisation may be thwarted by private anti-competitive practices. There is also a growing realisation that mutually supportive trade and competition policies can contribute to sound economic development, and that effective competition policies help to ensure that the benefits of liberalisation and market-based reforms flow through to all citizens” (WTO, 2001). According to the WTO report approximately 80 WTO member countries, including some 50 developing and transition countries, have adopted competition laws (also known as antitrust or anti-monopoly laws). These laws deal with a range of anti-competitive practices, including “price fixing and other cartel arrangements, abuses of a dominant position or monopolisation, mergers that limit competition, and agreements between suppliers and distributors (“vertical agreements”) that foreclose markets to new competitors” (WTO, 2001). National competition agency reviews of mergers by trans-national companies headquartered in other countries have recently received considerable press attention and illustrate the concern of trading partners about the potential trade effects of each other’s competition policies.

The GATT provisions on State-Trading Enterprises also reflect concerns about competition, and they impose certain obligations with respect to the conduct of enterprises that are either state-owned or state-controlled or have been granted

by the state exclusive or special privileges. The GATT provisions do not deal with the organisation and management of these enterprises, but with their operations and effects on trade. In particular, it requires that purchases and sales, including exports and imports, should be made in accordance with commercial considerations.

### ***Enforcement of competition policy by regional governments***

In Russia, federal law governs matters related to competition and the regulations of monopolistic activity.<sup>9</sup> To administer the national law, the Russian State Anti-Monopoly Ministry (SAMM) establishes regional departments and appoints officials who are subordinate to the federal body. SAMM regulations define the principal tasks and the competence of the regional bodies, which pursue a single state anti-monopoly policy, protect consumer rights, and prevent unfair competition.

The regional governments also play a significant role in competition policy. In Primorskiy *krai*, for example, regional authorities must approve major investments, purchases, sales or rentals or other transfers by local natural monopolies. The Primorye law defines a local natural monopoly as one in which the goods and services in question are produced in the region and customers have little or no opportunity to buy the goods or services outside the region. The law governs the activities in the following spheres:

- Output and transmission of electric and thermal power.
- Transportation of gas.
- Suburban railway transportation.
- Industrial railway transport on rail spurs.
- Transportation of freight and passengers by sea and air transport to regions of the Far North.
- Services of the ice-breaking fleet.

---

<sup>9</sup> Russian Federation Law of 1991 “On Competition and the Restriction of Monopolistic Activity on Goods Markets”.

- Water and sewerage services.
- Local electric power and postal services.
- Transportation of passengers and freight by coastal sea transport.
- Waste and garbage disposal.
- Services of transport terminals, ports, airports, sea, railway and bus stations.

Price controls on goods and services produced by natural monopolies are an important tool of competition policy in Russia. Both federal and regional government agencies administer price controls (See Box 2.1.). How price controls are administered is a significant concern for Russia's trade partners. Price controls could be used for example, to provide low-cost inputs (such as energy and transportation) to the production of goods and services that are exported or that compete with imports, thus providing the domestic producers a competitive advantage.

The Primorskiy *krai* government has exercised this authority on a number of occasions, either by limiting the percentage of profit allowed to the producer or by setting a maximum price for the product. For example, a 1995 resolution controlled prices on bread, milk, water and sewerage services, maintenance of housing, electric and thermal power supplies, passenger transportation and other products "concerning the vital interests of the majority of the population".<sup>10</sup> A resolution by the Primorye governor in 1997 placed price controls on pharmaceuticals and medical products, and other resolutions in 1999 placed price controls on kerosene, coal and firewood.<sup>11</sup>

The enforcement of Russia's competition laws has been problematical. The 1998 St. Petersburg survey, for example, observed that enforcing court decisions is tremendously difficult. Even when a violation of the antimonopoly

---

<sup>10</sup> Resolution of the Primorskiy *krai* Administration, "On approval of the order of reference of expenses in the costs of products and forming prices on socially important goods and services", No. 605, 15 December 1995.

<sup>11</sup> "On trade surcharges and discounts on pharmaceuticals and medical products", No. 443, 20 October 1997; "On the retail price of kerosene", No. 188-r, 23 February 1999; and "On the retail prices for solid fuel", No. 419, 20 September 1999.

legislation is uncovered and a favourable decision is made by the arbitration court, it is often impossible to execute the court order given the inadequacies in the legislation that executes court decisions. Thus, there are practically no cases in the arbitration court initiated by the St. Petersburg territorial department of the Russian SAMM. In Novgorod, the competence of the antimonopoly department does not extend to preventing violations in normative acts adopted by the Novgorod regional Duma.

### **Box 2.1. Role of sub-federal governments in controlling prices**

Russian laws provide that most important price controls are exercised at the federal level. Products subject to federal price controls include natural gas, electric power, and certain other energy supplies; diamonds; defense items; alcoholic beverages; some transportation services; and certain postal, communications, and broadcasting services.

Other price controls are exercised jointly by the federal and sub-federal governments:

- Natural gas, electric power, and some other energy supplies delivered to households.
- Medicines.
- Social services provided to elderly citizens, invalids, and others.
- Transportation of passengers and baggage by public transport (except rail transport).
- Funeral services.
- Water supply and sewerage services.
- Payments for public utilities.

In addition, sub-federal governments have the power to regulate prices for a third set of goods and services:

- Products delivered to the Far North or similar areas.
- Products distributed to public catering enterprises affiliated with educational institutions.
- Baby food.
- Transportation of passengers and baggage by suburban railway, motor vehicles along intra-regional and inter-regional routes, local airlines and water transport.
- Transport services on branch railway lines by non-federal transport enterprises.

More generally, enforcement of national competition policy in the regions is often impeded by informal relationships that local firms have with regional and municipal governments. A World Bank survey of 70 companies in 13 Russian regions suggested that the competitive success of many firms was significantly

determined by their privileged relationships with government authorities, especially local administrations. The survey found that regional authorities have strong political economic power, which they frequently use to prevent entry of firms from outside the region to protect the market shares of local firms. Local governments sometimes use subsidies, anti-competitive dispositions of marketing rights, access to land and real estate, and other means to protect favoured local companies (Broadman, 2002).

## **Standards and certification**

### ***Multilateral trade rules***

The WTO recognises member countries' rights to adopt the technical regulations and standards considered appropriate for their industrial development, the protection of animal, plant life and health, and meeting certain consumer interests. WTO members may take measures that are necessary to ensure that their standards are met. However, a plethora of technical regulations and industrial standards, varying from country to country, can burden international trade transactions.

The WTO Technical Barriers to Trade (TBT) Agreement seeks to ensure that technical regulations, standards, testing and certification procedures do not create unnecessary obstacles to trade. To avoid that standards and technical regulations are set and applied arbitrarily, the Agreement requires countries to apply these measures on a most-favoured nation basis to imports from all foreign sources. Standards and regulations should also meet the national treatment criterion, *i.e.* imported products should not be treated in a less favourable manner than that applicable to domestically produced products.

Technical regulations should be based on scientific information and evidence and not be formulated and applied in a manner to cause unnecessary obstacles to trade. The best way of satisfying this objective is to base technical regulations on international standards. The TBT Agreement encourages countries to use existing international standards as a basis for their technical regulations. To harmonise national technical regulations, the Agreement invites WTO members to participate in the International Standard Organisation (ISO) and other international standardisation organisations.

The Agreement imposes binding obligations on WTO member countries requiring the central government bodies to abide by its disciplines in formulating and applying standards. The TBT Agreement further calls on signatory governments "to take such reasonable measures as may be available

to them” to ensure that sub-federal bodies abide by the discipline of the Agreement.

### *Administration of standards and certification in Russia’s regions*

In Russia, federal laws and regulations provide the framework for product standards and certification. The federal law stipulates that the conformity of goods or services with specific standards or other normative documents is determined by a system of certification. Certification may be either mandatory or voluntary. The list of goods and services subject to mandatory certification and certification procedures are approved by resolutions of the Russian Federation government. The Russian State Committee for Standards (Gosstandart) administers the system of certification: it is empowered to create certification systems, establish the rules and procedures for conducting certification, appoint officials in regional bodies, and accredit the certification bodies and testing laboratories.

While federal authorities have established a national framework, some regional authorities have assumed active roles in product and service certification, and a number of regional bodies have been established to certify goods and services (in St. Petersburg they reportedly number over 20). Moreover, some regional certification bodies are empowered to hold additional laboratory tests of products, with confirmation of the safety of the products carried out at the expense of the applicant.<sup>12</sup> There appears to be some mutual recognition of product certification among regional Russian certification centres, but the extent of such mutual recognition is not clear.<sup>13</sup>

Russian federal regulations require mandatory certification for a large number of products, and the system has been complicated by the increasing requirement for “regional markings” for products (Auzan and Kriukova, 2001). The markings, which are required by regional governments for goods produced within the region, are in addition to national certification requirements. The first requirements for regional marks were introduced in 1998-1999, and then began to appear in many regions. They were most often required for alcoholic beverages, mineral water and other non-alcoholic drinks, juices, tobacco products, and audio and video equipment. The Moscow government has introduced a system of certification in selected areas for individual goods and

---

<sup>12</sup> St. Petersburg case study.

<sup>13</sup> Novgorod case study.

services, notably construction, food and alcoholic beverages. Primorskiy *krai* has established certification procedures for construction materials, oil and oil products, catering services, and transport-related products and services. Such regional laws have been primary targets of recent efforts by the federal government to bring regional legislation into conformity with federal law (see discussion in Chapter 3).

## **Financial aid and subsidies**

### ***Multilateral trade rules***

Most countries use subsidies and financial aid to pursue certain economic and social goals. The WTO provides rules that discourage the use of such measures that distort trade flows. The WTO provisions on subsidies are elaborated in the Agreement on Subsidies and Countervailing Measures (ASCM) and the Agreement on Agriculture. The ASCM provides rules on how subsidies can be used and on the actions countries can take to counter the effects of subsidies. A country can counter foreign subsidies by using the WTO's dispute settlement procedure to seek the withdrawal of the subsidy or the removal of its adverse effects, or it can launch an investigation and, if subsidised imports are found to be hurting domestic producers, charge extra (countervailing) duty on the imports in question (WTO, 2001).

Under the ASCM a subsidy is defined as a financial contribution by a government or a public body that confers a benefit. The Agreement lists types of measures representing financial contributions, *e.g.* grants, loans, equity infusions, loan guarantees, fiscal incentives, providing goods and services, and purchasing goods. Only "specific" subsidies, *i.e.* subsidies granted to specific enterprises, groups of enterprises, industries or groups of industries, are subject to the ASCM disciplines.

There are three basic categories of subsidies: prohibited, actionable (*i.e.* subject to challenge in the WTO or to countervailing measures) and non-actionable (*i.e.* which cannot be challenged or be subject to countervailing action) subsidies. Detailed rules are used in deciding whether a product is being subsidised (not always an easy calculation) and for determining whether imports of subsidised products are hurting ("causing injury to") domestic industry.

Non-specific subsidies are allocated in a non-discriminatory manner among firms and do not favour one sector over another. In contrast, subsidies are prohibited if contingent on export performance or on the use of domestic over imported goods. Actionable subsidies are permitted, but they may be challenged

through the WTO dispute settlement mechanism or countervailed if they create adverse effects or serious prejudice to a foreign country's industry.

Non-actionable subsidies (or "green subsidies") are legal and cannot be subject to countervailing actions. This category comprises all non-specific subsidies and some clearly defined specific subsidies. There are three types of specific subsidies that are non-actionable under certain conditions: subsidies granted for basic industrial and applied research; subsidies granted to disadvantaged regions and subsidies granted to adapt existing facilities to new environmental requirements.

### *Use of financial aid and subsidies by regional governments*

The discussion at the OECD Round Table in Novgorod detailed a range of regional financial aid measures that were viewed to distort trade. These measures included direct subsidies, transport subsidies, tax relief on specific products, input subsidies and credits (see Box 2.2. for an overview of non-agricultural subsidy programmes provided by sub-federal governments). The OECD case studies also found that regional governments actively support local industries that are major sources of employment or that faced special hardships in seeking loans from Russia's banking system.

The Sverdlovsk region, for example, offers specific industrial enterprises and branches a wide variety of financial support measures (tax holidays and exemptions, cash loans, credit guarantees, etc.). In the non-ferrous metallurgy sector, it is common to find regional government guarantees and tax credits for large projects financed by commercial loans. The credits are implemented in accordance with the "Statement on the procedure for extending tax credits in the Sverdlovsk region",<sup>14</sup> following a regional governmental decision. One of the largest aluminum industry enterprises in the region, stock company "Svyatogor", was granted an investment tax credit in the amount of RUB 2 billion (USD 64 million at 2002 exchange rates) for producing fertilisers made of technogenic raw materials. A large regional exporter, the copper industry stock company "Uralektromed" was granted an investment tax credit

---

<sup>14</sup> Approved in the Sverdlovsk regional government decree dated 10 July 1997 No. 574-p, with some revisions in the regional government decree dated 17 June 1998, No. 629.

for gold mining in the amount of its local property tax allocated to the local budget.<sup>15</sup>

### **Box 2.2. Non-agricultural subsidy programmes by sub-federal governments**

In response to Order No. 524-r of the Russian Federation Government in May 1998, 60 regions provided information on non-agricultural subsidy programmes. Of these, 17 regions said that they did not provide subsidies from their budgets. The remaining 43 regions reported subsidies of RUB 16 billion (in 1998 prices). They reported various types of subsidies:

- Direct transfers of funds from budgets (such as grants, capital investments, or other forms of compensation).
- Budgetary loans.
- Deferrals of taxes and fees to budgets of all levels of government.
- Investment tax credits.
- Exemption of taxes due to regional governments.
- Privileged tax rates.
- Reduced electric power rates.
- Other forms of support.

By far the largest forms of support were direct transfers of funds from the budgets (61% of the total) and tax exemptions (about 34%).

Of the total, about 51% was used for social purposes (22.2% was used to subsidize fuel sales to individuals; 21.3% to housing and utilities; 3% for individual transportation; and 4.5% for other social needs).

The remaining 49% was used for coal industry restructuring, support for defense industries, support for small businesses, lumber and wood-processing enterprises, metallurgy and other industry sectors, including funds for the payment of wages and for the maintenance of social assets of enterprises.

The Sverdlovsk regional government has also granted tax exemptions, either flat exemptions or payment rescheduling, to entire sectors of the economy. They represent a commitment to offset the tax liability of the holder of the tax exemption vis-à-vis the budget. Enterprises from the lumber, gold extracting

---

<sup>15</sup> Sverdlovsk regional government decrees No. 838-p (1 October 1997) and No. 1024-p (10 December 1996).

and the aluminum industries were exempted from territorial road taxes. Copper industry enterprises received property tax exemptions and enterprises producing goods for children were exempted from all regional taxes. Specific agricultural enterprises and producer groups also receive regional government support (bread grain funds, advance payments, price guarantees, investment credits, etc.).

St. Petersburg has a modest programme (USD 1 million annually) to support small businesses, generally by giving financial aid to special projects. Generally, however, the St. Petersburg Administration limits its direct subsidies to municipal enterprises, and it does not provide direct financial support of exporters.

As part of an effort to help the local shipping industry, the St. Petersburg government issued a decree that supported its “Concept of state support for the St. Petersburg International transport complex, 2001-2004”. It lobbied the federal government to provide in federal law that at least 50% of Russian foreign trade cargoes be shipped using Russian transport. Such a quota was, however, not introduced at the federal level.<sup>16</sup>

The City of Moscow provides a variety of tax exemptions, loans, loan guarantees and direct payments to further the economic and social goals of the city government. The subsidies promote not only general charitable and social activities, but also specific industries and firms. For example, profit tax exemptions are used to promote investments in the special industrial and territorial zone of Zelenograd, which is designed to encourage manufacturing in the electronics industries. They are also used to encourage foreign investment in companies involved in the production and distribution of automobiles and components. The City also has a special programme of financial support for light and textile industries. Such support includes reduced charges for land use, programmes for job preservation, guarantees and interest subsidies on bank loans, supplies of equipment provided by other regions as payments for their debt to the city government, and reduced rates for municipal services.

In Primorskiy *krai*, the most common form of financial aid is exemption from regional and local taxes. Exemptions from profit and property taxes are listed in the regional law “On rates and incentives for profit and property taxes for enterprises”. Another law permits subsidies to help indebted enterprises avoid bankruptcy. Indebted enterprises that are deemed to be socially and

---

<sup>16</sup> St Petersburg Decree No. 49, 26 July 2001.

economically valuable to Primorskiy *krai* (e.g, enterprises in priority sectors, manufacturers of daily consumer needs, important importers and exporters) are eligible for additional loans and grants.

Primorskiy *krai* also provides a broad spectrum of subsidies to the agricultural sector. The law “On the Target Territorial Fund for Financing and Development of Enterprises and Organisations of the Primorye Agro-Industrial Complex”, (No. 30-KZ, 20 January 1999) authorises a fund for financing and developing agricultural enterprises. The fund, which is financed by the regional budget, provides a variety of loans and grants. For example, it provides grants for breeding stock, growing certain crops, paying expenses for electricity and other inputs, and development of the social infrastructure of villages. It also provides low-cost loans for purchases of agricultural machinery, research and development, pest control, and other agricultural activities. The Duma annually approves a list of target areas of financing, based on a submission from the governor. The 1999 regional budget included appropriations of RUB 40 million (USD 1.3 million) to subsidise animal husbandry and RUB 186.7 million (USD 6.0 million) for other agricultural subsidies. In the past, however, such appropriations have not been fully funded.

There is also evidence that regional governments provide a variety of informal subsidies to favoured local businesses. In Primorskiy *krai*, for example, foreign businesses have complained that the discretionary debt relief that the government sometimes negotiates with large businesses distorts local markets and discourages investment. The debt relief is generally justified on the grounds that the large companies are major local employers. More generally, an OECD survey of the Russian economy in 2002 reported that major taxpayers or certain groups of small enterprises in some regions receive special tax treatment, such as tax exemptions or the restructuring of tax debts, from some regional administrations (OECD, 2002a). These practices can put potential competitors from other regions (or foreign investors) at a disadvantage, because they do not usually receive such favourable tax treatment.

The OECD survey describes another form of tax incentive offered by some regional governments that sometimes benefits companies from other regions with the effect of reducing tax collections in the companies’ home regions. Federal tax laws place ceilings of 19% and 2%, respectively, on the profit and property taxes that regional administrations may assess enterprises. Most regions set the taxes at or near the federal ceilings, but some have taken advantage of the opportunity to offer major exemptions, “a few even effectively transforming themselves into internal ‘off-shore zones’”. Many of the regions that offer major tax exemptions depend heavily on federal budgetary transfers to fund their social programmes, while leaving neighbouring regions that depend

on revenues from the profit and property taxes at a disadvantage. For example, a firm may register a subsidiary distributor and attribute most of its profits to operations in a low-tax region. It may thus avoid paying taxes in its high-tax home region, while making a formal or informal contribution to the government of the low-tax region (OECD, 2002, p. 164).

## **Government procurement**

### ***Multilateral trade rules***

Government purchases of goods and services represent an important share of total government expenditure and play a significant role in national economies. Governments sometimes seek to link purchases to policy goals such as promotion of local industrial sectors or business groups. Distortions in international trade can occur when government procurement practices are discriminatory (*e.g.* prohibit the purchase of foreign goods or services, exclude foreign suppliers, or establish preference margins, set-asides and offsets) or lack transparency in tendering procedures.

The growing awareness of the trade-restrictive effects of discriminatory procurement policies has motivated efforts to improve the Government Procurement Agreement (GPA). This agreement, which was signed at the same time as the WTO Agreement, is one of the “plurilateral” Agreements of the WTO, *i.e.* not signed by all members, though almost all developed as well as some transition economies are signatories.

The GPA establishes rights and obligations for national laws, regulations, and procedures. The present GPA took effect in 1996 and represents a 10-fold expansion of coverage over the previous agreement. It extends international competition to include national and local government entities whose collective purchases are worth several hundred billion dollars each year. The new agreement also extends coverage to services (including construction services), procurement at the sub-central level (for example, states, provinces, departments and prefectures), and procurement by public utilities. The Agreement applies to contracts worth more than specified threshold values, which are updated every two years, and Parties are required to inform the WTO Government Procurement Committee of the new values. GPA thresholds are valued in Special Drawing Rights (SDRs) and Parties’ threshold values for their respective Annexes to the GPA are derived by the exchange rate between the SDR value and the respective national currency. For example, U.S. threshold values for 2002-03 are as follows:

- Annex 1 (central government entities) purchases of goods and services: USD 169 000.
- Annex 2 (sub-central government entities) purchases of goods and services: USD 460 000.
- Annex 3 (utilities and other entities) purchases of goods and services: USD 460 000.
- Construction services for Annexes 1-3: USD 6 481 000.

The cornerstone of the rules is non-discrimination, *i.e.* signatory governments must give the products, services and suppliers of any other party treatment no less favourable than that they give to their domestic products, services and suppliers (national treatment). They must also not discriminate among goods, services and suppliers of other signatory countries (most favoured nation treatment among parties to the GPA). Furthermore, each Party must ensure that its entities do not treat a locally established supplier less favourably than another locally established supplier on the basis of the degree of foreign affiliation or ownership. The use of offsets, *i.e.* measures to encourage local development or improve the balance-of-payments accounts by means of domestic content, licensing of technology, investment requirements, counter-trade or similar requirements, are explicitly prohibited in the GPA.

The Agreement requires signatory countries to ensure the transparency of their laws, regulations, procedures and practices regarding public procurement. The laws, regulations, judicial decisions, administrative rulings of general application and any procedures regarding government procurement must be published. In addition, prior to the actual tendering process, parties to the Agreement are required to publish an invitation to participate in the form of a tender notice in a publicly accessible publication. The purpose is to inform all interested suppliers about the procurement opportunity and the relevant aspects of the given procurement. After the award of the contract, detailed information on the final decision must be provided in the form of a notice.

### ***Purchases by regional governments***

Russian federal law delegates to the governments of Federation members the power to purchase goods and services needed for their operations, and establishes general principles and guidelines on procedures for government

purchases.<sup>17</sup> Purchases by regional governments are financed from the regional budgets and extra-budgetary sources.

Most Russian regions use regional budgetary funds to buy substantial amounts of goods and services, particularly food products. Some regional administrations discriminate against suppliers from other regions and countries, while others are relatively more open. Supplies for St. Petersburg's regional fund for state needs of agricultural products and foodstuffs are organised on a competitive basis. The Russian Federation government and the St. Petersburg administration determine the list and amounts of purchases and deliveries made to the federal and regional funds for state needs. In turn, the state buyers select, on a competitive basis, the manufacturers and suppliers of the goods or services to be purchased and supplied for state needs. Any Russian enterprise or organisation may participate in the competition, but foreign suppliers may only compete if Russian suppliers offer an insufficient supply of products.

The Sverdlovsk region's state-order programme was established to further social and economic goals, namely to support effective demand and employment in the regional economy, to maintain a steady inflow of tax revenues, and to guarantee security of the food supply. The legal actors for the region's state order system are: the government of the Sverdlovsk region; the government's Steering Commission for the Procurement of Goods, Work and Services; state buyers of shipments of goods and other products for the region; authorised commercial organisations of the regional government (operating as intermediaries in order placement); and the suppliers of the goods and products in the region.

The suppliers of the goods and services within the state order system are exclusively enterprises (both state-owned and private) operating within the Sverdlovsk region.<sup>18</sup> Recommendations for the priority placement of regional state orders with regional enterprises are explicitly contained in the relevant resolutions of the regional government. The resolutions envisage providing "practical assistance in the placement of regional state orders on a competitive basis with the enterprises and organisations of the region". Since mid-1997, the

---

<sup>17</sup> Russian Federation Law "On Supply of Products for federal State Needs", No. 60-FZ, 13 December 1994 (with amendments of 19 June 1995, 17 March 1997 and 6 May 1999).

<sup>18</sup> Resolution of the government of the Sverdlovsk region "On the delivery of products for government (federal, regional) and municipal needs in 1997", No 399-p, 21 May 1997.

competitive basis of the placement of regional state orders has been strengthened and tendering has become a preferred form for the placement of orders. However, access to regional state orders remains considerably restricted. Enterprises from other regions of Russia and foreign companies have practically no access to the competition. Also the individual members of the commissions are, as a rule, representatives of the corresponding executive bodies (often formed along economic sector lines) and of regional sectoral industry groups and associations,<sup>19</sup> which considerably restricts the ability of the final consumers to influence the decisions.

The system of regional state orders is integrated into the regional government's budgetary process. A regional state order is enacted in the form of regional government resolutions that indicate a list of products to be used for industrial and technical purposes, a list of commodities, information on quantities, and a list of state buyers and suppliers of products. The regional order is part of the law on the regional budget for the corresponding year. The main commodity groups to be delivered within the framework of the regional state order include food (flour, eggs, whole milk products, meat products, potatoes, other vegetable products, and baby food) ethyl alcohol, alcoholic beverages and construction materials.<sup>20</sup> During certain periods, for example in 1996, the regional government established a regional state order for research and development work, most of which was for computer technologies, medicine, environmental protection, and projects in non-ferrous metallurgy. Expenditures for regional state orders are sizeable, accounting for 6 to 9% of total regional expenditures.

Moscow City laws and regulations on state purchases include the principle of using government orders to support Moscow suppliers by giving them preference in filling government orders. The law "On municipal state orders"<sup>21</sup> sets out two criteria for determining the winner of a city government tender:

- The bidder who has offered the best terms for supplying a product.
- Suppliers of goods and services produced in Moscow and firms registered in Moscow shall be granted a preferential right to fill

---

<sup>19</sup> See, for example, the resolution of the government of Sverdlovsk "On the delivery of goods for the social needs of the Sverdlovsk region in 1998," No. 222-p, para.4.

<sup>20</sup> Resolutions of the government of Sverdlovsk No. 196-p (12 March 1997), No. 399-p (21 May 1997) and No. 222-p (11 March 1998).

<sup>21</sup> Moscow Law No. 4, 10 March 2000.

government orders if their bids do not exceed the bids of other suppliers by more than 10%.

The 1999 Moscow law “On industrial activity in the City of Moscow” similarly stipulates that one of the forms of support of Moscow’s industrial activity is the creation of preferential conditions in placing state orders. In addition, a 1999 instruction by the mayor imposes a ban on governmental purchases of imported goods when similar goods are manufactured in Moscow, and another instruction on voluntary passports provides preferences for Moscow companies that have undertaken voluntary passport registration. To implement such preferences the city government’s Department of Science and Industrial policy was instructed to prepare a catalogue of goods produced by Moscow enterprises for municipal needs.

Moscow has generally implemented its preferences for Moscow-produced goods and services through the adoption of official instructions on purchases of specific goods and services. For example, a 1996 decree prohibited the Department of Foreign Relations and the Moscow Trading House from purchasing, either abroad or from other Russian Federation regions, motor vehicles and equipment similar to those produced by the Moscow plants AMO ZIL and AO Moskvitch.<sup>22</sup> The exclusion of foreign goods and services from state orders is consistent with federal legislation, but the exclusion of goods and services from other Russian regions is a violation of the constitutional principle of respecting a unified Russian Federation economic space.

The city government established similar preferences for companies that provide storage facilities for pharmaceuticals and medicines purchased by the city. A 1997 Instruction defines the obligatory kinds of facilities, equipment and personnel for all suppliers and further specifies that suppliers must have contracts with Moscow pharmacies to supply pharmaceuticals and medicines.<sup>23</sup> Another city law provides preferences for small businesses. It stipulates that at least 15% of the Moscow government’s total purchases be made from small businesses.

Other regions surveyed varied in their approaches to establishing regional or national preferences in their purchases. A resolution of the Primorye Governor,

---

<sup>22</sup> Decree of the Moscow Government No. 21 “On measures to rescue the Moscow Joint-Stock Company ‘Likhachev Plant’ (AMO ZIL) from crisis in 1997-1998”, 16 June 1999 with Amendments of 12 Sept. 2000.

<sup>23</sup> Instruction of the First Deputy Premier of Moscow No. 1243, 27 November 1997.

“On approval of tenders” (19 January 1998) establishes the framework for regional purchases for state needs. The choice should be made on the basis of the bidder’s ability to supply products on the most favourable terms. The Primorskiy *krai* imposes no restrictions on foreign suppliers. The Primorye Food Corporation is designated as the purchaser of foodstuffs for state needs and was allocated about USD 3 million for such purchases in 1999. The procedures of local governments in the region, however, vary. Regulations of the city of Vladivostok impose no restrictions on purchasing from foreign suppliers, but the city of Ussuriysk has a law that stipulates that foreign suppliers may participate in a tender to supply government needs only if the product is not produced in Russia or if a purchase of Russian products is commercially inexpedient. The St. Petersburg government’s procedures considered foreign suppliers to be suppliers of last resort, *i.e.* they could participate in competitions for supply only Russian enterprises and organisations offered an insufficient supply.

## **Investment and trade promotion and registration of foreign investors**

### ***Multilateral trade rules***

Regional governments in many countries have programmes to promote international trade and investment. Three WTO agreements – the Agreement on Subsidies and Countervailing Measures (ASCM), the Agreement on Trade-Related Investment Measures (TRIMs), and the General Agreement on Trade in Services (GATS) – are particularly relevant to such government programmes. As discussed above, the ASCM disciplines the use of subsidies to promote business activity. The TRIMs, negotiated during the Uruguay Round, is aimed at preventing certain investment measures that have trade-restrictive and distorting effects. It provides that no WTO member shall apply a measure that is prohibited by the provisions of GATT Article III (national treatment) or Article XI (quantitative restrictions). An Annex to the agreement gives examples of inconsistent measures, including local content and trade balancing requirements. The Agreement contains transitional arrangements allowing members to maintain notified TRIMs for a limited time following the entry into force of the WTO (two years in the case of developed country members, five years for developing country members, and seven years for least-developed country members). The GATS (discussed below) provides a framework for reducing barriers to trade in services, including liberalisation of laws and regulations that govern commercial presence of foreign companies.

The OECD oversees an Export Credit Arrangement, which provides a framework for the orderly use of officially supported export credits. In practice,

this means providing for a level playing field (whereby competition is based on the price and quality of the exported goods and not the financial terms provided) and working to eliminate subsidies and trade distortions related to officially supported export credits. The Arrangement places limitations on the terms and conditions of officially supported export credits (*e.g.* minimum interest rates, risk fees and maximum repayment terms) and the provision of tied aid. It includes procedures for prior notification, consultation, information exchange and review for export credit offers that are exceptions to or derogations of the rules as well as tied aid offers (for more details see OECD, 2002b).

### ***Investment and trade promotion policies of regional governments***

In Russia, a number of regional governments have established investment and export promotion programmes. The Primorskiy *krai* administration, for example, passed a “Law on Investment Activity” (19 November 1997) that directly links regional investment support programmes to the legal framework of the Russian Constitution and federal legislation. The law contains some provisions that are specific to the region, such as regional standards for the level of technical expertise of new enterprises and requirements for insurance. It also establishes a schedule of tax preferences: it provides exemptions from regional profit and property taxes for a period of five years and special tax preferences for foreign investments and projects that are included in the government’s economic development programme. In addition, investors are exempted from some local taxes, as the cities of Dalnegorsk, Ussuriysk and Vladivostok grant tax incentives for investments in certain types of businesses.

In addition to providing a regional legislative framework on investment, the Primorskiy *krai* administration has also initiated an investment programme that seeks to attract foreign and domestic capital by establishing a favourable investment climate. The investment programme identifies priority investment sectors for which businesses could get loan guarantees, tax exemptions, and other financial and legal incentives. It places special emphasis on depressed areas in the region.

A free economic zone (FEZ) was established by a 1991 federal decree at Nakhodka in Primorskiy *krai* to attract foreign investment into the region. The decree stipulates that foreign investment in the FEZ territory would enjoy certain property rights, including guarantees against nationalisation or confiscation, on a national treatment basis. The Federal Duma, however, never passed the enabling legislation and the FEZ suffered a number of political

setbacks. The FEZ's efforts at creating customs free zones similarly met with federal resistance.<sup>24</sup>

A subsequent Primorye law "On industrial complexes on the territory of the Nakhodka FEZ". provided additional measures aimed at attracting foreign investment independent of the originally planned FEZ and customs free zones. For example, it supported establishing industrial complexes, including those that might be formed in other parts of Primorye after being granted the status of zones of export production by Russian legislation. Qualifying industrial complexes were required to be processing industries exporting at least half of their production and using raw materials and labour from the Primorskiy *krai* or other regions in the Russian Far East. Resolutions of the Primorye governor<sup>25</sup> proclaimed the following territories to be industrial complexes with export-oriented enterprises:

- Russian-Korean Industrial complex and enterprise within its structure.
- Pacific-Industrial Complex.
- Small Industrial complex Kozimo.
- Severny Industrial complex.
- Advanced Technologies Industrial Complex.
- Sergeyevsky Wood-Processing Industrial Complex.
- Nakhodka Ship Repair Plant.
- Wood Chip complex of Port Vostochny Joint-Stock Company.
- Container Repair Base.

---

<sup>24</sup> The 1993 customs code deprived the FEZ of its duty-free status and a federal audit charged the FEZ administration of misappropriating federal funds, falsifying debts and acting without proper legislative authority. The Federal Customs Committee never issue implementation instructions for the customs free zone (Primorskiy *krai* case study).

<sup>25</sup> "On proclaiming the territories of industrial complexes of Nakhodka as a FEZ" (No. 428, 25 June 1996) and "On additions to the resolution of the Primorye governor to No. 428", (No. 576, 6 November 1996).

All of the complexes are in various stages of implementation and are oriented to specific export markets, mostly in East Asia.

Other Russian regions have also sought to stimulate foreign investment. The St. Petersburg administration enacted a law, “On the state support of investment activity on the territory of St. Petersburg”, (18 August 1998) to improve investment conditions, both for domestic and foreign investors. State support for investing is often tied to specific legislative provisions and involves granting:

- St. Petersburg government guarantees for funds invested in projects.
- Local tax exemptions.
- Local profit tax exemptions to banks and credit institutions that provide investment credits.
- Rent relief for investors.
- Payment holidays for rents due.
- Subsidies to investors.

The granting of local investment guarantees is co-ordinated with federal authorities in accordance with federal law and registered with the St. Petersburg authorities. All guarantees involve the payments of fees, may cover up to half of the invested funds, require a basic credit check and may extend for only up to six years. The St. Petersburg government also funds direct loans for investment projects. These include loans for investments made in St. Petersburg’s set of priority projects and for the placement of state orders. An export policy that grants state guarantees for exports, export credit insurance, and export credit subsidies is linked to these priority investment measures in export-oriented economic branches.

The St. Petersburg administration also promulgated a special law on tax preferences that provides tax holidays for local taxes to investors in line with specific international agreements. These tax breaks are available only when the foreign investor has invested at least USD 1 million in the charter capital of the legal entity and at least USD 10 million in the capital for material production in St. Petersburg. There are also special tax advantages given to investors in new

fixed assets. In addition, the recently amended St. Petersburg tax law<sup>26</sup> established the conditions for providing tax exemptions to certain types of organisations (budget, law-enforcement, residential housing partnerships, etc.), foreign investors, and residents of sub-zones and economic development zones. These organisations were exempted from taxes on enterprise and organisation profits, automotive vehicle purchases, transport vehicle ownership, enterprise property, and land. Some of these tax exemptions must be phased out because of new federal guidelines on exemptions to the profit tax.

Four economic development zones also exist in the St. Petersburg City, each of which has elaborated an investment programme that stipulates the use of funds gained from a preferential tax regime. The Izhora zone, for example, has involved modernising steel-smelting facilities to reduce pollution. The Tsarskoselskaya zone is focused on developing tourism in its historical areas.

The Sverdlovsk region, relatively wealthy and resource rich, is prepared to supply export credit guarantees for its exporters and establish its own network of trade development offices. The region also uses direct financing from the local budget for the rebuilding and re-equipping of export enterprises as a method of export promotion. Thus, in 1997 the regional government supported the stock company “Verkh-neivinsky factory for non-ferrous metals” to rebuild and modernise its industrial facilities for lead production, resulting in a 6% increase in production output.

### ***Regional registration requirements***

The Russian Federation Law “On Foreign Investment in the Russian Federation” (No. 160-FZ, 9 July 1999) requires that enterprises with foreign investments and representative offices of foreign companies be registered with the “bodies of justice”. The State Registration Chamber, attached to the Ministry of Justice, provides guidelines on the kinds of enterprises that must be registered, but the registration process is largely administered at the regional level. The case studies suggest that regional governments have enacted varying requirements for registration for foreign investors and for domestic enterprises. A new law on business registration was enacted 1 July 2002, as part of the federal government’s programme to reduce the regulatory burden on business. The new law establishes limits on the amount of time and the level of fees

---

<sup>26</sup> St. Petersburg Law No. 81-11 (14 July 1995) “On tax privileges,” amended 9 November 2001.

required to register new businesses and encourages governments to use a “one window” approach to registration.

A Moscow City decree enacted in 1991 and a Mayor’s decree of 1998, for example, establish the rules for registering companies and organisations, including foreign investors.<sup>27</sup> They provide that the Moscow Registration Chamber, a department of the federal Ministry of Justice, is responsible for registrations. In large part, the requirements are similar to those in other regions, but the Mayor’s decree places some additional requirements for information about capital assets and real estate rentals.

The regional administration of Sverdlovsk approved a Provision on the Order of Registration of Organisations with Foreign Investment (Resolution No. 261 of 20 June 1997), requiring the Regional Economic Committee to register organisations in which the value of foreign capital does not exceed RUB 100 million, except for enterprises in the oil and gas extracting and processing industries and the coal mining industry. Enterprises with more foreign capital, and those in the oil, gas and coal industries must register with the State Registration Chamber.

There are complex registration requirements for foreign investors in Primorskiy *krai*. The requirements for registration of foreign investments in Primorskiy *krai* are established by the Decision of the Administration of Primorskiy *krai* No. 158 of 4 April 1995. The decision requires that all enterprises with foreign investments be registered with the Primorskiy division of the State Registration Chamber, which is subordinated to the Chairman of the Committee on Foreign Economic and Regional Relations. The Decision also establishes the amount of the registration fee. The situation is complicated by another Decision of the Governor No. 189, 14 February 2000, which requires registration of juridical persons and other participants in entrepreneurial activity to register with the Primorskiy Division of Justice. It is not clear whether the latter decision, which has more burdensome registration procedures and a different method for calculating fees, applies to foreign investors. A further complication is that local governments, such as the Administration of Vladivostok, have additional registration requirements.

---

<sup>27</sup>. Moscow City Decree No. 97, 17 September 1991, as amended on 11 November 1997; and Moscow City Mayor Decree No. 1044-RM “On Strengthening Control of Formation of Statutory Capital of Legal Persons”, 16 October 1998.

A survey undertaken for the Ministry of Economic Development in 2002 suggests that the varying and complex rules for registration described in the case studies are typical. Many new businesses reported that registration is costlier and more time-consuming than specified in the new law on registration. Moreover, despite the new law on registration, most prospective businessmen must seek approval from a number of government offices when registering (CEFIR, 2002).

## **Environmental protection**

### *Multilateral trade rules*

WTO rules allow members to set their own environmental objectives, but they are bound to implement them through measures consistent with the WTO's provisions, notably those on equal treatment of domestic and imported products. Environmental legislation should opt for the least trade-distorting measures and protect the environment satisfactorily. The principle of transparency constitutes a first step in ensuring that trade and environmental policies are developed and implemented in a mutually supportive way. Future WTO negotiations may explore the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements and the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.

### *Environmental policies of regional governments*

In Russia, environmental protection is a joint responsibility of the Federation and its members. A Russian Federation law provides for a single system of state ecological funds, pooling the federal, regional and local funds to protect the environment.<sup>28</sup> The funds are formed from payments from enterprises, organisations, citizens, including foreign legal persons and citizens, for discharges of pollutants into the environment, waste removal and other forms of pollution. The law sets guidelines on the basic rates that must be paid for various kinds of pollution. Both Moscow and Primorskiy *krai*, for example, have enacted laws that set the rates that individuals and enterprises must pay for environmental protection.

---

<sup>28</sup> Russian Federation Law "On Protection of the Natural Environment", No. 2060-1, 19 December 1991, with amendments of 21 February 1992 and 2 June 1993.

Regional officials appear to be quite active in implementing environmental protection measures. In accordance with the federal law, the regional competence for environmental protection includes:

- Determining the main themes for environmental protection and approving territorial ecological programmes.
- Accounting and inventorying the natural environment, the state of natural resources, and the registration of ecologically harmful facilities.
- Inventorying and estimating the volumes of production waste and exhaust products at enterprises, institutions and organisations situated in the region, regardless of the form of property and subordination.
- Planning environmental protection, financing and material and technical supply of nature conservation programmes.
- Co-ordinating nature conservation activities of agencies of state administration, enterprises, institutions and organisations and promoting the voluntary co-operation among funds for the implementation of environmental protection measures.
- Co-ordinating the activity of ecological services at enterprises, institutions and organisations regardless of the form of property and subordination and making environmental impact analyses for projects.
- Maintaining ecological control, adopting guidelines on the restriction, suspension and termination of activities at facilities failing to meet the requirements of nature protection legislation.
- Issuing permits for the right to use the natural environment and its resources, to discharge and dump harmful substances, to place, store and bury waste.
- Organising the collection and recuperation of industrial and domestic waste.
- Organising specially guarded natural territories.<sup>29</sup>

---

<sup>29</sup> Article 6 of Russian Federation Law “On environmental protection.”

In some cases, the regional governments have enacted comprehensive environmental programmes that go beyond existing federal law. Materials provided at the Novgorod Round Table, for example described environmental policy in the Republic of Bashkortostan, which has enacted its own environmental protection law and environmental code. It also launched a wide-ranging programme on the ecological security of the Republic.

The case studies of the Russian regions found no instances where regional environmental policies distorted trade. However, while seemingly rare, such cases do occur. The Nizhny Novgorod regional administration recently nullified its earlier decree “On the gradual transfer of automobile transport in the Nizhny Novgorod region to ecologically clean diesel fuel”, that stipulated that fuelling stations could only sell oil-and-sulphur bearing diesel fuel of the DLECH-1 brand in accordance with technical specifications for “ecologically clean diesel fuel”. The law thus forbade selling other brands of diesel fuel, without taking into account their technical specifications.

## **Licensing procedures for service providers**

### ***Multilateral trade rules***

The General Agreement on Trade in Services (GATS) provides a legal framework for reducing barriers to trade and investment in services among WTO member countries. The framework includes general principles that apply to all WTO member countries and specific commitments by members to restrict their use of barriers to trade in services. Among the general principles are most-favoured-nation treatment (equal treatment for all trade partners) and national treatment (equal treatment for foreign and domestic providers) in service activities for which a country makes specific commitments (exemptions are allowed in some cases). Member countries must also ensure that laws and regulations are transparent (*i.e.* that both foreign and domestic providers have access to published information) and that regulations are objective and reasonable. A country’s commitments to open markets in specific sectors are negotiated with other member countries and are bound (that is, they can only be changed or withdrawn after negotiations with its trading partners).

The GATS covers all internationally traded services and includes four modes of providing an international service:

- Services supplied from one country to another (*e.g.* international telephone calls), officially known as cross-border supply.

- Consumers or firms making use of a service in another country (*e.g.* tourism), officially known as consumption abroad.
- A foreign company setting up subsidiaries or branches to provide services in another country (*e.g.* foreign banks setting up operations in a country), officially commercial presence.
- Individuals travelling from their own country to supply services in another (*e.g.* fashion models or consultants), officially presence of natural persons (WTO, 2001).

Each WTO member negotiates with its trading partners on commitments to open its markets for specific service sectors. The commitments appear in “schedules” that list the sectors being opened, the extent of market access being given in those sectors (*e.g.* whether there are any restrictions on foreign ownership), and any limitations on national treatment (whether some rights granted to local companies will not be granted to foreign companies). These commitments are “bound”: *i.e.* they can only be modified or withdrawn after negotiations with affected countries and changes would probably require compensation. Because “unbinding” is difficult, the commitments are virtual guarantees of stable conditions for foreign exporters and importers of services and investors in the sector.

### ***The role of regional governments***

Regional and local governments in Russia play a major role in licensing service activities. The Russian Federation Law “On the licensing of individual forms of activity”<sup>30</sup> provides guidelines for a single state policy on licensing services in Russia. Only the activities listed in this law and the activities identified in previous federal laws are subject to licensing in Russia. According to the law, unlisted activities can be carried out without a licence. The law identifies licensing bodies that are responsible for issuing licences, overseeing the observance of licence requirements, suspending or renewing licences, and keeping a register of licences (CEFIR, 2002, p. 9).

The law enacted in 2002 reduced the number of activities that require licences and stipulated that all licences should be valid for not less than five years and

---

<sup>30</sup> The most recent law was passed on 9 February 2002. Some service industries, such as telecommunications, financial services (including insurance), distribution and audio-visual services are subject to sector-specific legislation.

the fee for obtaining a licence should be RUB 1 000 plus RUB 300 for application (the previous law provided that licences should be valid for at least three years and should cost RUB 3 000). A survey carried out for the Ministry of Economic Development and Trade found that even the requirements of the old law were not being met: 34.1% of the firms surveyed reported that they had received licences of less than three years and had paid an average of RUB 8 000 for them.

Federal authorities responsible for licensing may delegate the authority to regional and local officials, and in practice, sub-national governments have received broad authority to license service activities. Regional and local authorities thus exert a considerable administrative influence on the licensing process, notably:

- Re-registering documents confirming the existence of a licence.
- Suspending a licence.
- Re-instating a licence.
- Cancelling a licence.
- Checking on the observance of licence requirements and terms.

Moscow City laws recognise the authority of the Russian Federation in the licensing process, laying out objectives for licensing that are consistent with federal laws and explicitly directing local licensing bodies to carry out licensing in accordance with federal laws. City laws enacted in 1995 and 1998 provide the rationale and procedures for business licensing in Moscow.<sup>31</sup> These laws seek to achieve the following:

- Protect the rights of consumers of goods and services.
- Regulate developing market relations.

---

<sup>31</sup> Decree of the Moscow government No. 699, “On improving the system for licensing activities on the Moscow City territory”, 15 August 1995, with amendments of 30 April, 25 June and 16 December 1996 and 3 June, 12 August and 9 September 1997. Instruction of the Moscow mayor No. 242-RM “On developing the licensing system in the city of Moscow”, 18 March 1998, with amendments of 10 June and 17 December 1999 and 15 March 2000.

- Raise the quality of goods and services.
- Regulate activities that pose potential dangers to the life, health and property of citizens, the interests of society and the state, and the environment.
- Ensure equal conditions for access to the market for organisations of all types of property.
- Prohibit the market entry of organisations engaged in illegal, unqualified or hazardous activities.
- Ensure a balance of interests of citizens, entrepreneurs and the state.

While the overall objectives of licensing are consistent with federal law, the Moscow administration's implementation of its licensing laws differs somewhat from federal guidelines. The Moscow list of activities requiring a licence includes activities for which federal laws do not require a licence; moreover Moscow's documentation requirements and fee structures differ from the federal law. A more general problem with Moscow laws regulating the issuance of licences is the lack of transparency in setting conditions for approving a licence. For example, when some laws state that specialists should have certain qualifications or be certified, they leave undefined how qualifications should be ascertained or what the certification procedures are. In some service areas not covered by federal legislation, such as accrediting appraisers, Moscow laws impose additional licensing requirements that restrict market access. Federal laws provide few guidelines for appraisers, but Moscow laws and regulations establish a complex set of requirements and conditions for individuals and companies wanting to operate in Moscow.<sup>32</sup>

The Primorskiy *krai* governor established the Licence Chamber of the Territorial Administration as the region's agency responsible for co-ordinating licensing activities. Among the Chamber's functions are: policy-making, reviewing licence applications, setting conditions for specific service activities, keeping a territorial register, and representing the territorial government in making agreements with the federal government. The regional law has added additional criteria for licensing decisions to those criteria stipulated by federal law, and these added criteria appear to give regional licensing authorities

---

<sup>32</sup> Instruction of the mayor of Moscow No. 723-RM, "On developing a system for regulating appraisal activity in Moscow city", 12 July 1999.

considerable discretion in granting or revoking licences. For example, the regional Licensing Chamber, according to regional law, is authorised to suspend or cancel a licence because of “unjustified overpricing” of services, without the criteria for such a determination being stipulated in the law. Similarly, regional licensing authorities are authorised to consider whether the licensed enterprise is providing adequate services to the entire population, but the criteria for such a judgement are unstated.

Local governments in the Primorskiy *krai* have also established similar licensing bodies. Local laws also have sometimes used vaguely defined criteria for making decisions on licensing. For example, the resolution of the Vladivostok mayor, “Provision of the Vladivostok Licensing Chamber” (No. 834, 14 March 1997), states that the purpose of licensing activities in the city is to protect consumers from the actions of entrepreneurs conducting illegal, unqualified or hazardous activity. The city law adds that the licensing authority should also consider “the protection of entrepreneurs from dishonest competition, the creation of favourable conditions for the development of honest business, and the prevention of monopoly and the influence of departmental interests on the market for goods and services”. As with the regional law, these criteria are not defined precisely. The lack of transparency in this area raises concerns about possible abuses.

Another example of the discretionary authority of regional officials can be found in the instruction of the Primorye governor, “On the legal examination of documents presented for receiving a licence for exercising individual forms of activity” (No. 1165-r, 23 October 1996). This instruction was passed “for the purposes of improving the quality of documents presented for receiving a licence” and recommends that enterprises seeking a licence apply to two private organisations for legal help. Although licence applicants are not forced to go to the two organisations listed in the Instruction, this measure could be viewed as an informal additional condition for the issuance of a licence and a measure that discriminates against other legal service providers.

Regional and local authorities in Primorskiy *krai* have assumed broad powers to licence certain economic activities in the service sector. Both levels of government issue licences in the distribution service sector, mostly dealing with the trade in goods subject to excise taxes (alcoholic beverages, jewelry, tobacco, motor vehicles, gasoline and some food products) and pharmaceuticals. Tourist services are also licensed at both levels. The regional government licenses the purchase, processing and sale of scrap metals, construction and architectural services, housing and utility services.

Openly discriminatory measures, while rare, do exist in the region. A Vladivostok law imposes a licence fee on applicants in advertising and decorative activity that is 2.5 times higher for foreigners and 3.5 times higher for joint ventures formed with the participation of foreign capital. Similarly, Primorye law provides for licence fees on foreign enterprises engaged in construction activities that are higher than fees for domestic firms.<sup>33</sup>

While the insurance industry is primarily subject to federal law, regional governments have exerted their authority in licensing of insurance services. For example, the St. Petersburg administration enacted a law setting conditions for insurance companies to participate in the insurance of residential properties owned by the regional government. The law stipulates the terms of insurance for the properties and requires that insurers must be registered as insurance companies in St. Petersburg. It also established a procedure for the administration to nominate and select insurance companies that provide the insurance.

## **Natural resources**

### ***Multilateral trade rules***

Russia is richly endowed with natural resources and key resources, such as oil, gas, and metals make up a major share of its export trade. Several WTO disciplines are relevant to the development of and trade in natural resources. As discussed above, the provisions of the TRIMs agreement govern certain trade-restrictive investment measures, and the WTO's guidelines on environmental measures discipline actions taken to protect the environment. The WTO also provides guidelines on export restrictions. Export prohibitions, restrictions and non-automatic licensing can only be applied temporarily under Article XI of the GATT 1994 to prevent or relieve critical shortages of foodstuffs or other products essential to an exporting WTO member. Article XX of the GATT 1994 also allows for restrictive export measures, but only if such measures are applied in conjunction with restrictions on domestic production or consumption.

---

<sup>33</sup> Resolution of the Head of the Vladivostok Administration "On the compulsory licensing of advertising and decorative activity in Vladivostok", No. 1084, 10 August 1994 and Instruction of the Primorye Territorial Administration "Procedures and size of payment for the issuance of licences to engage in construction activity on the territory of Primorskiy *krai*", No. 982-r, 30 December 1993.

## *The role of regional governments*

The Russian Federation Constitution and federal laws<sup>34</sup> establish the jurisdictions of the central, regional and local governments over the use of natural resources. The law stipulates that subterranean natural resources are state property and that the issues of ownership, usage management of them are under the joint jurisdiction of the Russian Federation and its members. The federal government retains broad jurisdiction for geological prospecting, implementing programmes for developing and using the mineral base, establishing procedures on payments for using natural resources, and resolving disputes over the use of natural resources. Among the important functions assigned by the law to regional and local governments are:

- Participating in solving problems on using natural resources that are related to the socio-economic and ecological interests of the population.
- Developing mineral resources needed by local industrial enterprises.
- Issuing permits for and regulating the use of deposits of commonly distributed minerals (such as sand, clay, gravel and chalk) and construction of subterranean structures.
- Suspending projects that violate the law.
- Imposing restrictions on the exploitation of natural resources in populated areas, industrial areas, and areas used for transportation and communications.

The federal law provides federal and regional authorities joint responsibility for issuing licences to use natural resources and stipulates the kind of payments users must make to the different governmental authorities. Payments for hydrocarbon extraction are distributed as follows: 30% to the local government, 30% to the regional government and 40% to the federal government. Payments for the extraction of most other mineral resources are distributed as follows: 50% to the local government, 25% to the regional government, and 25% to the federal government.

---

<sup>34</sup> “On subterranean natural resources” No. 27-FZ, last amended 10 February 1999.

Primorskiy *krai* does not have an agreement with the federal government on the division of the jurisdiction and responsibilities for the use of natural resources as do some regions. Consequently, the provisions of the federal law govern entirely the roles of the two levels of government. In accordance with the federal law, the regional government has enacted laws to regulate the use of commonly distributed minerals and the construction of subterranean structures. It has also enacted laws to regulate the use of underground water, forest resources and domestic fisheries in accordance with federal legislation.

The central government has jurisdiction over the regulation of Russian exports, including export duties, quotas and licensing, and national security export controls. Federal laws and regulations specify which exports are subject to duties or quotas and which require export licences. The Ministry for Economic Development and Trade, through its regional representatives, is responsible for issuing export licences. The regional governments' roles are limited to co-operating with federal officials in ensuring implementation of the laws. For example, a federal decision identified certain types of timber as "precious forest species" and called on the regions to exercise controls over the harvesting, processing and export of related products. To implement the federal decision, the governor of the Primorskiy *krai* issued a decision calling on local federal representatives to issue licences in co-ordination with the regional administration.<sup>35</sup>

## **Intellectual property rights**

### ***Multilateral trade rules***

Many goods and services that are traded internationally have an important intellectual property content. The WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement) establishes minimum standards for national laws for the protection of various forms of intellectual property rights and for their enforcement. The TRIPS Agreement also ensures that disputes regarding members' implementation of their obligations under the Agreement can be resolved using the WTO's dispute settlement procedures.

National treatment (treating the nationals of other WTO members no less favourably than a member's own nationals) and most-favoured-nation treatment

---

<sup>35</sup> Decision of the Primorskiy *krai* governor No. 340, "On strengthening control over the observance of the legislative requirements on the export of woods of precious forest species", 30 July 1999.

(treating the nationals of all WTO members no less favourably than the nationals of the most-favoured nation) are two important principles of the TRIPs Agreement. To ensure adequate protection, the TRIPs Agreement incorporates the substantive provisions of the Paris Convention for the Protection of Industrial Property and the Berne Convention for the Protection of Literary and Artistic Works and establishes additional standards for copyrights and related rights, trademarks, geographical indications, industrial designs, patents, layout designs of integrated circuits, and undisclosed information.

Perhaps Part III of the TRIPs Agreement, which establishes standards for enforcement, most directly affects sub-national governments because they often have law enforcement responsibilities. The provisions in Part III are divided into general obligations, obligations concerning civil and administrative procedures and remedies, obligations regarding provisional measures, border enforcement obligations, and obligation regarding criminal procedures. All of the procedures must be available under a member's law "to permit effective enforcement action against any act of infringement of intellectual property rights" and remedies must be sufficient to constitute a deterrent to further infringement. The procedures are to be fair and equitable, and not unnecessarily complicated or costly, or entail unreasonable time limits or unwarranted delays. It must be possible to appeal to judicial authorities administrative decisions and initial judicial decisions on the merits. The remainder of Part III spells out in some detail the authorities that judicial and administrative decision makers must have, including authorities regarding the production of evidence, provisional measures, remedies, including, in certain circumstances, the disposal or destruction of counterfeit trademarked goods or pirated copyrighted works. Border enforcement must be available with respect to counterfeit trademarked goods or pirated copyrighted works, and criminal action must be available for wilful trademark counterfeiting or copyright piracy on a commercial scale (WTO, 2001).

### *The role of regional governments*

The case studies found relatively few instances of disputes over intellectual property rights occurring at the regional level. Regional courts and police do, however, carry a major responsibility in this area. In Novgorod, for example, the regional prosecutor's office and the Ministry of Interior's departments for fighting economic crime share responsibility for enforcing national laws on protection of intellectual property rights.

In February 1998, the Novgorod regional prosecutor's office initiated criminal proceedings on case No. 9657, based on Part 1, Article 146 of the Russian

Federaton Criminal Code, in which signs of copyright violation were alleged. The infringement claim was supported by the companies Microsoft, Symantec and 1C. The Novgorod Information-Analytical Centre conducted a forensic-technical examination that confirmed the violation (*i.e.* the software was copied and distributed without concluding the necessary agreements with the copyright holders).

A regional centre of accounting, registration and legal protection for information resources and intellectual property objects is acting on the basis of the Novgorod Information-Analytical Centre. The legal protection for objects of industrial property and copyrights is part of the mandates of the Novgorod Chamber of Trade and Industry, the Novgorod Centre for Scientific and Technical Information, the Novgorod Scientific Co-ordinating Centre, the northern branch of the Centre for Support of Small Business, the Novgorod Business Park, and the Novgorod Representation of the Russian Authorship Society.

## REFERENCES

- Auzan, A. and P. Kriukova (2001), "Administrativnye bariery v ekonomike: zadachi deblokirovaniia", *Voprosy ekonomiki*, No. 5, pp. 73-88.
- Broadman, H. G. (ed.) (2002), *Unleashing Russia's Business Potential: Lessons from the Regions for Building Market Institutions*, The World Bank, Washington.
- CEFIR (Center for Economic and Financial Research) (2002), *Monitoring of Administrative Barriers to Small Business Growth*, Moscow, [www.CEFIR.org](http://www.CEFIR.org)
- OECD (Organisation for Economic Co-operation and Development) (1998), *Open Markets Matter: The Benefits of Trade and Investment Liberalisation*, April 1998, OECD, Paris.
- OECD (2002a), *Economic Surveys: Russian Federation 2001/2002*, Vol. 2002/5, March 2002, OECD, Paris.
- OECD (2002b), *The Arrangement on Guidelines for officially supported Export Credits*, October 2002, available on the Organisation for Economic Co-operation's web site, *Export Credit Home page* [www.oecd.org/EN/home/0,,EN-home-347-nodirectorate-no-no-no-24--no-,00.html](http://www.oecd.org/EN/home/0,,EN-home-347-nodirectorate-no-no-no-24--no-,00.html)
- WTO (World Trade Organisation) (2001), *About the WTO - Trading into the Future*, 2<sup>nd</sup> edition March 2001, available at the WTO website, [www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/tif\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/tif_e.htm)



### *Chapter 3*

## **REFORMS OF THE RUSSIAN FEDERAL SYSTEM: EXAMPLES OF THEIR EFFECTS ON REGIONAL TRADE-RELATED LAWS**

**Abstract.** The central government has assigned high priority to ensuring that regional laws and administrative practices do not contradict federal trade policies or undermine the commitments that Russia is negotiating in the WTO. Among the initiatives undertaken by the federal government are measures to redefine the political and administrative institutions governing relations between the federal and sub-federal governments, review laws enacted by regional governments, monitor international agreements concluded by the regional governments, and enact legislation to define more clearly the jurisdictions of the federal and sub-federal governments. In addition, the government's programme of administrative reform may help to provide more predictability and transparency and limit the costs of regional laws and regulations. A major effort by the Ministry of Economic Development and Trade to inform regional governments of the implications of WTO accession could also contribute to more uniform trade policies.

## Introduction

Since the first years of the Russian Federation, the central government has struggled to define the nature of the Russian federal system. The central dilemma of government officials has been to allow regional and local governments sufficient independence to exercise effectively the powers granted them by the Constitution, while ensuring a unified legal and economic space for the country. Despite several attempts at reform during the administration of President Yeltsin, there was growing concern at the centre that the regional governments were accumulating too much authority, often frustrating national policy objectives. On trade-related matters, there was concern that the regional governments were thwarting efforts to implement a unified trade policy, with adverse consequences for Russia's efforts to adhere to international trade disciplines and accede to the World Trade Organisation.

In the last two years the central government has assigned high priority to strengthening the power of the central government to ensure that national policies are implemented throughout the country. Speaking in Kazan, Tatarstan, on 22 March 2000, (then acting) President Putin criticised the excessive devolution of power to the regions. "We must aim to make life equally good in all Russian regions", he said. "We will not achieve that without a unified legal and economic space in Russia" (Radio Free Europe/Radio Liberty, 2000). Since his inauguration, President Putin has taken a number of steps that suggest to some observers a concerted effort to curb the independence of the regions. He has suspended regional laws that conflicted with federation laws and called on republican leaders to amend provisions of their constitutions that conflict with the federal constitution.

In May 2000, President Putin proposed legislation to reshape the Federation Council (the upper house of Parliament) by requiring that the governor and legislature of each region appoint two representatives to the body (with majority approval in the legislature), instead of the current practice of representation by the governor and speaker of the legislature of each region. A second proposal would allow the President to discipline regional leaders and regional legislatures that make decisions conflicting with federal law or the constitution. A third proposal would empower the President to dismiss regional governors under some circumstances, and give governors the same power over local governments<sup>1</sup> (these proposals were subsequently enacted)<sup>2</sup>. By Presidential

---

<sup>1</sup> For discussion of these reforms, see Hyde (2001).

Decree, President Putin also established the Russian Federation State Council, whose membership includes the President and all of the regional governors. The main objectives of the State Council include discussion and making proposals to the president of key issues concerning the relationship between the central and sub-central governments and assisting the President in implementing conciliatory procedures for the settlement of differences between the various levels of government.

### **Establishment of presidential representatives**

Also in May 2000, President Putin issued a presidential decree that replaced the presidential envoys to each region with an envoy to each of seven large federal districts, which would have responsibility for co-ordinating federal relations with the 89 subjects.<sup>3</sup> The purpose of the change is to “ensure the exercise by the president of the Russian Federation of his constitutional powers, to make the work of federal bodies of state power more effective and to improve control over compliance with their decisions”. The decree gives the envoys considerable authority to see that the central government’s policies are implemented consistently throughout the country and makes it clear that they answer directly to the President, and not to local officials. The functions of the representatives are:

- Organisation of the interaction between the federal executive authorities with governments of the Russian Federation members and bodies of local self-government.

---

<sup>2</sup> Federal Law of 29 July 1999 “On Introduction of Amendments and Additions to the Federal Law ‘On General Principles of Organisation of Legislative and Executive Bodies of State Power in the RF Members’”, Federal Law of 4 August 2000 “On Introduction of Amendments and Additions to the Federal Law ‘On General Principles of Organising Local Self-Government in the Russian Federation’”; and the Federal Law of 5 August 2000 “On the Order of Formation of the FR Federation Council”.

<sup>3</sup> Presidential Decree 849 “On Plenipotentiary Representatives of the Russian Federation President in the Federal Districts”. The decree includes a list of districts and their capitals. They are the Central Federal District (with a capital in Moscow); North-Western Federal District (St. Petersburg); Southern Federal District (Rostov-na-Donu); Volga Federal District (Nizhniy Novgorod); Urals Federal District (Yekaterinburg); Siberian Federal District (Novosibirsk); and Far Eastern Federal District (Khabarovsk).

- Control over the observance of federal laws, decrees and instructions of the Russian Federation President, decrees and decisions of the Russian Federation Government, and implementation of federal programmes.
- Organisation of conciliatory procedures to settle differences between federal agencies and government authorities in the regions.
- Submitting proposals to the President on suspending acts by the executive authorities of the regions when such acts contradict the Russian Federation Constitution, federal laws, international obligations of the Russian Federation, or violate citizens' rights and freedoms.
- Interaction with the Chief Control Department of the President and the Prosecutor's Office in controlling the observance of federal laws, decrees and instructions of the President, and decrees and decisions of the Government.
- Ensuring the fulfilment of decrees and instructions of the Government, the implementation of federal programmes, and the proper utilisation of federal property and funds.

To implement the Presidential Decree on Presidential Representatives, the Russian Federation Government issued a decree setting up regional branches for federal agencies and establishing procedures for their interaction with the Presidential Representatives. The Decree provides that the heads of federal agencies set up subdivisions to co-ordinate the activities of the agencies with the Presidential Representatives and to clarify the jurisdiction of various organisations in the regions that are subordinate to the federal agencies.

For example, to implement the Presidential and Government decrees, Gosstandart (the Russian Federation State Committee for Standardisation, Metrology, and Certification) has appointed a representative and established state standards centres in each of the federal districts.<sup>4</sup> The representatives

---

<sup>4</sup> The centres for the seven federal districts are: Rostest-Moscow (Central District); Test-St. Petersburg (North-Western District); the Rostov Centre for Standardisation, Metrology and Certification (Southern District); the Nizhny Novgorod Centre for Standardisation, Metrology and Certification (Volga District); Uraltest – the Ural Centre for Standardisation, Metrology and Certification (Ural District); the Novosibirsk Centre for Standardisation,

serve as liaisons with the Presidential Representatives and co-ordinate the activities of organisations subordinate to Gosstandart in the federal districts. The Gosstandart representatives are directed to assist the Presidential Representative on matters related to standards and certification and to provide information to Gosstandart on the inconsistency of laws and administrative actions by regional governments in the district with federal laws and regulations of Gosstandart.

The establishment of presidential representatives has engendered some controversy. Some observers have credited the new representatives with helping to improve communications between the federal and sub-federal governments and helping to ensure that federal policies are properly carried out in the regions. Others have criticised the representatives and their staffs as a redundant level of bureaucracy. The presidential representative to the Volga Federal District, Sergei Kirienko, has characterised the representatives as a transitory institution, which will be replaced as more effective federal institutions evolve (WWICS, 2002).

The reforms of the federal system have inevitably affected the involvement of the regions in trade-related policies. The following sections discuss specific measures taken by the central government and give examples how they have changed trade-related laws and policies in the regions.<sup>5</sup>

### **Legal review of legislative acts of Russian Federation members by the Russian Federation Ministry of Justice**

Since the mid-1990s, officials in the central government have expressed concern about the enactment of laws by sub-central governments that are inconsistent with the Russian Federation Constitution or federal laws. Decrees by the President and the Russian Federation Government in 1994 and 1995 directed the Ministry of Justice to review laws adopted by regional governments and to seek changes in those that are inconsistent.<sup>6</sup> The decrees require that,

---

Metrology and Certification (Siberian District); and the Khabarovsk Centre for Standardisation, Metrology and Certification (Far Eastern District).

<sup>5</sup> These sections are based largely on information provided by the Centre for Trade Policy and Law, Moscow.

<sup>6</sup> Presidential Decree 2147 of 3 December 1994 “On Measures of Improvement of Legal Support of Activity of the Russian Federation President”, Decree of the Russian Federation Government 550 of June 3, 1995 “On Additional Functions of the Russian Federation Ministry of Justice”.

when the Justice Ministry identifies a law that is inconsistent, it makes recommendations to the government involved to change the law. Between 1995 and April 2001, the Justice Ministry reviewed about 52 000 laws and found about 1 000 of them to be inconsistent. The most frequent flaws in the legislative active of Russian Federation members were:

- Enactment of laws on subjects for which sub-national governments do not have jurisdiction under the Constitution.
- Distortion of the intent of, or rewriting, federal laws with amendments.
- Enactment of laws that violate constitutional principles of separation of powers between the legislative and executive branches (a characteristic of the charters of a number of regions).
- Adoption of measures that restrict the rights and freedoms guaranteed to Russian citizens by the Constitution.
- Technical shortcomings in writing legislation, leading to contradictions between regional laws and federal laws or the Russian Federation Constitution.

In 2000, the central authorities undertook new measures to assign higher priority to the review of regional laws. An Order of the Justice Ministry directed the territorial bodies of the Ministry to participate actively in the legislative activity of the regions, to review legislation enacted by the regional governments, and to maintain records of all legislation enacted by regional governments.<sup>7</sup> A Presidential Decree in August 2000 directed the Justice Ministry to establish a federal data bank of regional laws.<sup>8</sup> Regional authorities were instructed to forward copies of newly enacted laws to the Justice Ministry within seven days for inclusion in the federal register and review by the Ministry.

---

<sup>7</sup> Order of the Russian Federation Ministry of Justice 176 of 10 June 2000 “On Priority Measures for Invigorating the Activity of the Russian Federation Ministry of Justice to Ensure a Single Legal Space in the Russian Federation”.

<sup>8</sup> Presidential Decree 1486 of 10 August 2000 “On Additional Measures to Ensure the Unity of the Legal Environment in the Russian Federation”.

A Ministry of Justice Decree in October 2000 clarified the scope of the Ministry's responsibilities for reviewing regional legal acts and spelled out procedures for such reviews.<sup>9</sup> According to the Decree, the Ministry reviews constitutions, charters, laws, regulations and other decisions by governments of Russian Federation members. A Department of Legislation of the Russian Federation Members was established in February 2001 to conduct the reviews. The Decree stipulates that reviews shall be completed and presented to the regional authorities within 30 days. If regional laws are found to be inconsistent with the Constitution or federal laws, the Justice Ministry's territorial offices assist regional authorities in amending them. If regional laws remain in violation, the Ministry attempts to conciliate or refers the matter to the Russian Federation Constitutional Court. The President has the power to suspend laws pending a decision by the Court.<sup>10</sup>

The review of regional laws has been a contentious process, with regional administrations frequently resisting (sometimes successfully) federal efforts to amend or annul the laws. In fact, one of the presidential representatives, Petr Latyshev of the Urals Federal District, voiced some support for the regional governments. He said that, in many cases, there are no federal laws regulating issues that the Constitution assigns exclusively to the federal government. Regional governments had enacted laws to fill the void. In other cases, he said, there were contradictions in federal laws, and the regional governments had enacted laws to clarify the situation.<sup>11</sup>

A large number of the Ministry of Justice reviews of regional laws and regulations has pertained to trade-related measures. They include measures related to licensing of economic activities, the freedom of movement of goods, freedom to establish enterprises (including those with foreign investment), price

---

<sup>9</sup> Decree of the Justice Ministry 296, 18 October 2000 "Provisional Order of Holding Legal Expertise of Normative Acts of Russian Federation Members".

<sup>10</sup> An important decision by the Russian Federation Constitutional Court supported the power of the federal courts to recognise as invalid legal acts of the Russian Federation members that are inconsistent with their constitutional prerogatives and with federal law. Decision of the Russian Federation Constitutional Court of April 11, 2000, on the case of control of constitutional compliance of provisions of the Federal Law "On the Russian Federation Prosecutor's Office", in connection with the request of the Panel of Judges for Civil Affairs of the Russian Federation Supreme Court. *Collected Laws of the Russian Federation, 2000*, no. 16, p. 1774.

<sup>11</sup> "Latyshev seeks changes in federal laws," *Urals Business News*, 14 January 2002.

controls, certification, and taxes. The following are examples of measures in a few selected regions that were found to be inconsistent with federal law and were subsequently amended.

### *Licensing*

Licensing violations most often involved requirements for licensing activities at the regional level that were not stipulated by federal laws or regional requirements for additional procedures or fees to obtain a licence. The Ministry has found many such violations.

- In Chelyabinsk *oblast*, for example, a number of decrees of the Governor were found to contradict the federal law “On Licensing of Individual Forms of Activity” because they required licensing of some activities not stipulated in the federal law. The decrees, issued between 1993 and 2000, concerned such spheres of activity as education, the maintenance and operation of gas fuelling stations, public screening of motion pictures and video films, construction, distribution of fireworks. A 1999 law of Chelyabinsk *oblast* on licensing of realty activity and a 1992 decree by the head of the Chelyabinsk administration were also found to be inconsistent with federal legislation.
- Also in Chelyabinsk *oblast*, a number of decrees had to be amended because they required additional procedures or higher fees than stipulated by federal law. These included licences for activities such as employment services, operation of oil bases and gas stations, international tourism, passenger transportation, inspection and conservation of cultural monuments, and production and marketing of alcohol. For the same reason, a number of other, more general measures on licensing issued by the Governor and the Chelyabinsk Administration were found to be inconsistent with federal law.
- In Primorskiy *krai*, several decrees issued by the Governor were amended after they were found to conflict with federal laws. One 1998 decree set fees for licensing pharmaceutical activities that were higher than those allowed by federal law. Two other decrees, one dealing with procedures for registering licences and another, with licensing of international information exchange, required procedures for licence seekers that were not require by federal law.
- In Nizhny Novgorod, decrees by the regional administration and the Governor dealing with licensing of assessment activities were

nullified after they were found inconsistent with Federal Law 153-FZ that provides national procedures for licensing assessment activities. Another decree by the Governor dealing with licensing engineering systems, municipal improvements, and building and road maintenance was nullified because it exceeded the competence of regional authorities.

- In St. Petersburg, several measures issued by the Mayor and the Governor, providing for the licensing of operators of gas stations, pawnshops, and motion pictures were found inconsistent with Federal Law 158-FZ “On Licensing of Individual Forms of Activity”. Other Instructions of the Governor were abolished because they licensed economic activities under the authority of a federal law that had expired.
- In Leningrad *oblast*, a government decree on licensing of construction activity and a governor’s decree establishing procedures for licensing activity were found inconsistent with Federal Law 158-FZ. Also a regional government law on licensing the production of alcohol was found inconsistent with the corresponding federal law.
- In Sverdlovsk *oblast*, government decrees governing the issuance of licences for alcohol production were also found inconsistent with federal law.
- In the Volga federal district, over 90 laws on licensing (more than 40 of them in the Republic of Bashkortostan) have been found inconsistent and subsequently brought into conformity with federal law. The laws dealt with the licensing of a broad array of economic activities, including processing scrap metal, commodity exchanges, motion pictures, legal services, publishing, veterinary services, international tourism, road transport, and social services.
- In the Republic of Mordovia, government decrees on the licensing of sales of fireworks, lottery and gambling, wholesale trade in tobacco, sales of alcohol, operation of oil bases and gasoline stations, and rail transport were found inconsistent and nullified. In addition, two decrees introducing “quasi-licensing” in the form of certification of enterprises in wholesale and retail trade in consumer goods were found inconsistent with federal law.
- A similar form of quasi-licensing, requiring certification of companies involved in selling goods and services in the Republic of Udmurtia was also nullified.

### ***Laws restricting freedom of movement of goods and the independence of economic activities***

The Justice Ministry has identified a number of regional laws intended to restrict movement of goods and entry into various markets. Some have been determined to be in conflict with federal competition laws and other federal laws.

A 1994 decree of the Council of Ministers of Udmurtia creating a register of exports from the republic, for example, was nullified because it restricted the free movement of goods and the independence of companies. It was found to be in violation of Articles 8 and 74 of the Russian Federation Constitution and the Russian Federation Civil Code. Another government decree in 2000 “On the Marking of Produce with Identification Stamps on the Territory of Udmurtia Republic” was determined to be inconsistent with the same provisions of the Constitution because it restricted free movement of goods.

A Nizhny Novgorod law enacted in 2001 restricted exports of scrap metal by requiring exporters to obtain a certificate issued by local authorities. The law was found to be in violation of Article 74 of the Russian Federation Constitution and the Russian Federation law “On Competition and Restriction of Monopolist Activity on Commodity Markets”. (Another provision of the law was found in violation of the national law on licensing). Another decree of the Nizhny Novgorod Regional Administration was found inconsistent with the same Russian Federation competition law because it stipulated that gas stations at enterprises in the region could sell only one brand of “ecologically clean diesel fuel”, thus restricting access to the regional market. Two decrees issued by the Nizhny Novgorod Governor in 2000 were nullified when they were determined to conflict with federal laws. A decree that authorised the establishment of a council to co-ordinate advertising in the region was found to contradict the federal law “On Advertising”. The latter stipulates that state regulation of advertising lies within the authority of the Federal Antimonopoly Agency. Another decree that controlled prices for leasing contracts was found to violate the principles of freedom to enter commercial agreements and freedom of economic activity.

A decree of the Governor of Penza set prices for seals on alcoholic beverages that discriminated against producers from outside the region. It was nullified when it was found to conflict with the national competition.

### ***Establishment of enterprises, including those with foreign investment***

Legal measures adopted in Khabarovsk *oblast* dealing with the establishment and registration of enterprises with foreign investment were determined to violate several federal laws, such as Federal Law 39-FZ “On the Stock Market”, Federal Law 160-FZ “On Foreign Investment in the Russian Federation”, and Federal Law 14-FZ “On Limited Partnerships”. The Khabarovsk measures, which set conditions for registration of such enterprises that were not required by national legislation and intruded in areas that are under federal jurisdiction, were subsequently amended.

Similarly, a decree of the Governor of Sverdlovsk *oblast* set requirements for registration of joint stock companies that were inconsistent with Federal Law 208-FZ “On Joint-Stock Companies”, and was consequently nullified.

### ***Price controls***

A number of regional governments have been required to change laws that set price controls on goods and services after the Justice Ministry determined that the prices were subject to federal, rather than, regional regulation.

The government of Khabarovsk *oblast*, for example, was required to end price controls on international telephone and postal services when it determined that regional governments did not have the power to regulate such prices. State regulation and control of the activity of natural monopolies in the sphere of communications is under the jurisdiction of the Russian Federation Ministry for Antimonopoly Policy.

Similar laws enacted by the administration of Chelyabinsk *oblast* set price controls on electric power, fuel and other energy resources, and a variety of consumer goods. These laws were found to contradict federal laws stipulating that federal ministries have jurisdiction over such price controls.

### ***Certification***

A number of regional governments have enacted laws requiring special certification of products sold within the regions. Alcoholic beverages have frequently been the subject of such laws. Laws in Chelyabinsk, Sverdlovsk, and Penza oblasts, for example, which required local certification of alcoholic beverages (including those produced in other regions), were nullified because they were found to conflict with federal laws. Federal Laws 171-FZ “On State

Regulation of Production and Turnover of Ethyl Alcohol and Products Containing Alcohol”, and 5151-FZ “On Certification of Products and Services” stipulate that certification of alcoholic beverages is under the jurisdiction of federal authorities.

### ***Taxes and duties related to foreign economic and investment activities***

Some regional governments have assumed taxation powers that are in conflict with federal laws. A tax law in Sverdlovsk *oblast*, for example, established a procedure of calculating sales taxes, which conflicted with the Russian Federation Tax Code. Another Sverdlovsk law set conditions for suspending a tax credit, which was not envisioned by the Russian Federation Tax Code. Both laws were nullified.

### **Co-ordination of international and foreign economic relations of members of the Russian Federation**

Although the right of regional governments to enter into certain international agreements is widely recognised, the federal government has taken a more active role in monitoring such agreements. Russian Federation Law 4-FZ of 4 January 1999 “On Co-ordination of International and Foreign Economic Relations of Members of the Russian Federation” stipulates the conditions under which Russian Federation members can maintain international and foreign economic relations with entities or administrative-territorial units of foreign states or participate in the activities of international organisations. It specifies that members can maintain relations in trade, economic, scientific-technical, ecological, humanitarian, cultural and other spheres.

The procedures for federal co-ordination of the international activities of Russian Federation members were elaborated in Russian Federation Government Decree 91 “On Adoption of Decisions by the Russian Federation Government on Consent to Russian Federation Members Maintaining International and Foreign Economic Relations with State Authorities of Foreign States”, issued 1 February 2000. The decree requires that executive authorities of the Russian Federation members submit applications to the Foreign Ministry, the Justice Ministry, or other relevant ministries for approval of any international agreements they want to enter. The Justice Ministry reviewed 24 such agreements from 1985 to April 2001 and found that all of them conformed to federal laws.

## **Delineation of subjects of jurisdiction and authorities by treaties and agreements**

In the summer of 2001, President Putin issued Decree 741 “On a Commission under the President of the Russian Federation to Prepare Proposals on the Delineation of Subjects of Jurisdiction and Authorities between the Federal State Bodies of Power, Bodies of State Power of the Russian Federation Members and Bodies of Local Self-Government”. He appointed Deputy Head of the Russian Presidential Administration Dmitry Kozak as Chairman of the commission created by the decree. The commission was instructed to give the President proposals on the delineation of jurisdiction and responsibilities of federal, regional and local authorities. It was also asked to provide assistance in removing inconsistencies in the constitutions, charters, laws and other legal acts of Russian Federation members and to propose improvements in federal legislation on the delineation of subjects of jurisdiction and responsibilities between federal, regional and local governments.

The commission was directed to submit its proposals to the President by 1 June 2002. It began its work by reviewing 42 agreements concluded between the federal government and regional governments during 1994-1995. Some of the agreements have reportedly been annulled as a result of the review (Radio Free Europe/Radio Liberty, 2002). Other regions, such as Tatarstan, have revised, but maintained their agreements. The commission has also recommended changes in the constitutions of the republics, and the governments have complied with some, but not all, of the recommended changes. In November 2002, the commission proposed two new draft bills to define more clearly the division of functions among the federal, regional and municipal governments. President Putin introduced the draft bills to the State Duma on 4 January 2003.

## **General administrative reforms – “debureaucratisation”**

The federal government’s programme of “debureaucratisation,” or administrative reform, has important implications for both foreign and domestic companies involved in trade. A central goal of the reform is to reduce administrative discretion and overall costs to businesses. Legislation related to registration, licensing, inspections and certification are of particular concern to both domestic and foreign-invested firms (CEFIR, 2002; Ministry of Economic Development and Trade, 2002). Three of the four new laws in these areas were enacted in 2001-02 and the fourth, on certification, has been sent to the Duma:

- The law “On State Registration of Legal Persons”, enacted in July 2002, limits the charges for registration to RUB 2 000, and the time for approving or denying registration to not more than a month after submission. The law also sets as a goal to have a single office complete the registration process.
- The law “On Licensing of Certain Activities”, which came into effect in February 2002, strictly limits the number of activities subject to licensing. It reduces the fee for obtaining a licence to RUB 1 000, plus RUB 300 for application, and stipulates that the licence should be valid for not less than five years.
- The law “On Protection of Legal Persons and Individual Businessmen during Government Inspections”, enacted in 2001, defines procedures for government inspections and assigns responsibility to government agencies carrying out the inspections. Its purpose is to reduce the number of inspections that businesses have to endure.
- The draft law “On Certification and Standardisation” will set procedures for obtaining certificates, limit the costs, and establish the period of validity for certificates.

If successful, the reforms are likely to provide more predictable and transparent rules and to limit the costs, of trade-related regulations that are often administered by regional governments.

### **Educating regional officials and others about the implications of WTO accession**

The federal government, led by the Ministry of Economic Development and Trade, has made a major effort to inform regional officials and others of the implications of WTO accession for the regions. The information campaign has included the creation of an informative web site ([www.wto.ru](http://www.wto.ru)), a series of conferences and round tables in cities throughout Russia, and an information bulletin on developments in the negotiations.

The effects of the campaign were evident in the results of one of the OECD’s case studies. In the first case studies, the regional officials’ lack of knowledge about the WTO and its disciplines posed a major difficulty to the Russian consultants during their interviews. The consultants surveying St. Petersburg in 1998 reported “an almost total lack of knowledge about the WTO and important disciplines such as those on subsidies”. In fact, the consultants remarked that

local officials generally assumed that the Russian acronym referred to the All-Russian Theatrical Society. In 2002 the same consultants were able to report a striking change:

“During the period from 1998 there occurred some fundamental changes. Questions related to WTO accession are now discussed almost on a daily basis in the press, television and radio... A round table dedicated to examining Russia’s accession to the WTO took place on the 14<sup>th</sup> December 2001 at the St. Petersburg Legislative Assembly”

This round table recommended that all Russian regions:

- Undertake an objective economic impact analysis of WTO membership on their regions.
- Conduct a thorough examination of their legislation in light of WTO disciplines.
- Review possible programmes to alleviate any negative social problems caused by WTO accession.

Shortly after the St. Petersburg round table there was a meeting of the Administration of the Russian Manufacturers Association at which the basic question on the agenda was Russia’s joining of the WTO. Federal government ministers, State Duma deputies, members of the Council of the Federation, Presidential and Federal District staff members, and other interested parties from both the federal and regional levels participated. In the spring of 2002, the St. Petersburg Chamber of Commerce and Industry held a seminar on Russia’s WTO accession, with senior regional government and business officials participating. There is evidence of similar activity related to WTO accession in other regions.

## REFERENCES

- CEFIR (Center for Economic and Financial Research) (2002), *Monitoring of Administrative Barriers to Small Business Growth*, Moscow, [www.CEFIR.org](http://www.CEFIR.org)
- Hyde, M. (2001), "Putin's Federal Reforms and their Implications for Presidential Power in Russia", *Europe-Asia Studies*, Vol. 53, No. 5, pp. 719-743.
- Ministry of Economic Development and Trade (2002), *All Government Reforms Produce Planned Result*, available at [www.economy.gov.ru/gref\\_e crus.html](http://www.economy.gov.ru/gref_e crus.html)
- Radio Free Europe/Radio Liberty (2000), *Newsline*, 23 March 2000
- Radio Free Europe/Radio Liberty (2002), *Russian Federation Report*, Vol. 4, No. 16, 2 May 2002.
- WWICS (Woodrow Wilson International Center for Scholars) (2002), *Russia's Presidential Districts: A Representative's View*, Kennan Institute, Washington, <http://wwics.si.edu>

## *Chapter 4*

### **CONCLUDING REMARKS**

**Abstract.** While some diversity in trade-related policies in Russia's regions is inevitable and, in some cases, useful, it raises significant problems at the national level. For Russia's trade negotiators, it complicates the task of convincing trade partners that commitments undertaken in international agreements will be observed and implemented uniformly throughout the country. For the Russian economy generally, discriminatory regional policies, such as subsidies and restrictions on market access, can lead to costly distortions in the allocation of resources. The federal government has demonstrated an awareness of these problems and taken positive steps to deal with them. It is clear, however, that creating a unified trade policy is a long-term undertaking that will require continued work.

## **Introduction**

The case studies on the interface between central and sub-national governments in trade policy revealed laws, regulations and administrative actions in the regions that raise concerns about potential conflicts with Russia's foreign trade commitments and about the effects on trade flows and domestic economic activity. In particular, they highlighted measures related to subsidies, government procurement, licensing, investment and trade promotion, environmental protection and, at times regional "border" restrictions that influence Russia's trade flows and its ability to adhere to multilateral trade disciplines. They also highlighted federal policies that are sometimes implemented inconsistently by regional branches of federal agencies. The case studies cover the period 1998-2001. Because of significant changes in Russia's trade laws and in the relationship between the federal and sub-federal relationship, some of these practices may have changed. Nevertheless, the evidence presented in the case studies, the OECD round tables in Russia, and other research in the project, suggest some general conclusions.

### **Major problems in regional trade-related policies**

The case studies revealed several kinds of laws and practices at the sub-national level that pose particular concerns from the standpoint of observance of multilateral trade rules and sound economic policy. First, some policies at the regional level are openly discriminatory. While border restrictions are apparently no longer a problem, sub-national governments continue to discriminate against producers from other regions or countries. They provide, for example, a variety of subsidies to local producers and sometimes reserve government contracts for favoured enterprises that are based in the region. Second, some policies at the regional level are not transparent or predictable. Regional customs agencies, for example, appear to have considerable discretionary authority in setting rules on customs classification and valuation, leading to different customs rates for the same product. Similarly, laws and regulations on licensing in some regions provide only vague criteria for officials to make decisions on granting licences. Third, some policies impose unnecessary burdens on businesses and raise costs for consumers. The large number of economic activities that require licences and products that require certification are prime examples.

Such policies tend to favour well-connected and politically powerful enterprises at the expense of small and weak enterprises. They may penalise efficient producers, increase prices for consumers and encourage corruption. They are

also often costly to taxpayers. They make it difficult for the federal government to conduct a uniform trade policy that is consistent with multilateral rules. Discussions of these problems at the OECD round tables in Russia and surveys of foreign businessmen operating in Russia revealed a preference among producers for policies at the regional level that support a more business-friendly environment for all companies, foreign and domestic. Most business representatives tended to prefer a level playing field to special government incentives. Non-discrimination, protection of ownership rights, transparency in government regulations and continuity in laws are key aspects of an economic environment that promotes trade and investment.

### **Trade policy in Russia's federal system**

In federal systems, where powers to conduct economic policy are shared between central and sub-national governments, some degree of variation in trade-related policies at the sub-national level can be expected. Indeed, in a country of Russia's size, with a large diversity of regions, different approaches to economic policy may be necessary. A region with declining industries and high unemployment, for example, may require more activist government policies aimed at structural adjustment than a region with advanced competitive industry and full employment. Similarly, regions that are well endowed with natural resources, regions with special environmental concerns, or border regions may require specific approaches to trade-related policies. Sub-national governments are most knowledgeable about local conditions and should retain the necessary authority to address them.

Moreover, experimentation with different policy approaches at the sub-national can serve as a means of promoting innovation, which can lead to better approaches to policy. The central government and other regional governments could learn, for example, from a region's new approaches that resulted in more effective policies to facilitate trade and investment or to organise the licensing of services.

There are, however, two primary concerns about wide variations in regional trade-related policies or the lack of consistency between central and regional policies. First, in trade negotiations in general, and in negotiations on accession to the WTO specifically, the central government must make commitments to observe multinational rules and to open its market to foreign competition. Russia's trade partners, who make similar commitments, will expect a uniform Russian trade policy that is observed by all levels of government and in all parts of the country. A uniform trade policy that is transparent, predictable and non-

discriminatory serves to promote trade and investment by assuring trade partners that they face a common set of rules in the Russian market.

Second, the trade-related policies of sub-national governments are important not only because they affect Russia's international trade commitments, but also because they shape the conditions under which producers and consumers operate in a market economy. Discriminatory policies, such as subsidies and restrictions on market access, lead to distortions in the allocation of resources that adversely affect the efficiency of producers and the welfare of consumers. Even when non-discriminatory, multiple sets of trade rules implemented by sub-national governments can add to the cost of doing business, thus impeding both inter-regional and international trade. By implementing a common set of trade rules that are consistent with national laws and international trade rules, sub-national governments can avoid such distortions.

### **Response of the federal government**

Given the active involvement of the regions in trade-related policies, the implementation of a uniform trade policy clearly requires intensive co-ordination between the central and sub-national governments. Central authorities must be aware of developments in trade-related laws and regulations in the regions, and regional authorities must understand the commitments that the central government is undertaking in trade negotiations.

Federal authorities have taken steps to bring regional laws into conformity with the Russian Constitution and federal laws and to consult with regional governments on Russia's international trade commitments. President Putin has spoken out on a number of occasions about the need to create a unified legal and economic space in Russia, and his Administration has attempted to curb the independence of some regional governments. The Ministry of Justice has reviewed a large number of laws and regulations from the regions and found many to be inconsistent with federal laws. In many cases, regional governments have agreed to change the laws. In other cases, the President has suspended such laws, and the Russian courts have struck down regional statutes that it found unconstitutional.

Generally, the response of the federal government has helped to establish a legal environment in the regions that will facilitate Russia's efforts to comply with international trade disciplines and remove obstacles to both domestic and international trade. Most of the sub-national trade-related laws that have been targeted have not only contradicted federal laws, but have discriminated against non-local enterprises or made it more costly to do business in the region.

Federal and sub-federal authorities deserve credit for changing such laws. It is important to keep in mind, however, that implementation of new laws and practices is a long-term undertaking that will require continued work. It should also be noted that some of the most problematical trade-related policies pursued at the sub-federal level are informal, extra-legal measures that are not easily corrected by changes in formal laws.

Another important element in effective co-ordination between the federal and sub-federal levels of government is to ensure that federal trade-related legislation provides clear guidelines to officials responsible for implementing policies in the regions. A major reason for divergent regional laws and procedures in the past has been the absence of clear, unambiguous federal legislation in trade-related areas. In this regard, it will be important for federal authorities to carefully monitor the implementation of newly enacted federal laws on registration, licensing and business inspections to ensure that regional authorities are properly carrying out the intent of the laws. Similarly, it is important that draft legislation dealing with certification and standardisation and with customs valuation and other procedures provide clear guidelines to regional officials.

The efforts by the Ministry of Economic Development and Trade to provide information to, and consult with, sub-federal authorities and non-government groups have also had a positive effect on public understanding of the issues at stake. For example, at the time of the OECD's first case study in 1998, the consultants reported that the WTO and its related trade disciplines were virtually unknown to most regional administrations. The situation has changed greatly in a few years. Russia's accession into the WTO now receives almost daily local media attention. Regional officials, together with local business leaders, have participated in numerous technical and policy workshops on WTO disciplines.

These signs of a growing public dialogue among federal and regional governmental officials on WTO accession and the active federal programme to establish more open, transparent and predictable trade laws are positive signs of the Russian Federation government's intent to adopt multilateral trade disciplines and to ensure that the implications of those commitments are widely understood in Russia.

## **BACKGROUND DOCUMENTATION**

Alexseev, M. and V. Vagin (1999), "Russian Regions in Expanding Europe: The Pskov Connection", *Europe-Asia Studies*, Vol. 51, No. 1, pp. 43-64.

EastWest Institute (2000-02), *Russian Regional Report, 2000-2002*, New York.

Kirkow, P. (1999), "Foreign Trade Arrangements in Russian and its Regions: Relying on Foreign Capital to Generate Growth?", *Post-Communist Economies*, Vol. 11, No. 1, pp. 79-98.

OECD PUBLICATIONS, 2, rue André-Pascal, 75775 PARIS CEDEX 16  
PRINTED IN FRANCE  
(14 2003 06 1 P) ISBN 92-64-10201-9 – No. 53059 2003