

# Trade Policy and Regulation Russia

Government policies and measures concerning trade can have a significant effect on company business strategies. With numerous countries entering into new trade agreements and implementing new trade legislation and enforcement strategies, many varying challenges and issues can arise. To find out more, we speak to Evgeny Zhilin, Associated Partner at YUST Law Firm in Russia. YUST is a leading Russian law firm providing a wide range of legal services, particularly in the corporate, antitrust, tax, trade, bankruptcy and litigation areas.

## What are the main Government policies and measures affecting trade in your country?

The Russian Government typically relies on a vast arsenal of measures to effectively exercise a grip over the economy. Main instruments include the Central Bank regulations affecting the interest rates, the customs and tariffs regulations, licensing of certain business areas and transactions, antitrust regulations, securities market regulations, controls over public procurement, state registration of certain transactions (e.g. real estate, IP), currency control regulations, foreign investments clearance.

## What are the key legal implications surrounding trade policies?

The key legal implications surrounding trade policies represent a weighted balance of lifting trade barriers while at the same time sharpening the eye of state controllers over certain transactions and types of activities that might cause impairment of public interests. Russia's

accession to the WTO after almost 17 years of trade negotiations is the major driver for changes in the trade area in 2013 and subsequent (transition) years. While the WTO rules aim at achieving a certain level of customs duties for import operations, the Russian government will more frequently resort to other regulatory methods (non-tariff, antitrust, tax preferences etc.) to achieve protection of certain national industries such as automotive and agriculture.

## How do you feel this practice area has developed over the course of the last year? Have there been any recent developments in trade policy and regulation? Are there any that you see the need for?

Notwithstanding the accession to the WTO (effective from August 2012), there have been no major shifts in this practice area in 2012. The types and number of trade disputes have essentially remained the same, with only antitrust disputes showing a considerable growth. The Antitrust legislation has been re-edited for

the third time in less than 7 years, the competent authorities becoming more sophisticated in both legal arguments and methods of antitrust campaigns such as simultaneous raids on particular industries. For a number of years, the public procurement procedures were under sharp critics, which resulted in the adoption of a new public procurement law that will become effective January 1st 2014. A recent development is the establishment of a separate court on IP rights under the auspices of the High Arbitration Court which is still underway. In 2012, the state courts have continued their crusade against domestic arbitration tribunals resulting in further decrease of cases tried outside the state arbitration courts system. Another major development appears to be the re-edition of the Civil Code leading to approximately one third of its articles being re-drafted. This process is still underway and will probably not end in 2013, though there is consensus in the market that such changes would boost the trade activities in the Russian market.

## Do you often deal with trade disputes? What are the most common types of trade dispute you see?

Our Firm regularly deals with trade disputes in both national litigation and international commercial arbitration. For domestic litigation, the most common types of disputes include performance disputes related to various supply, services and agency contracts, sale and purchase of securities, pricing disputes, validity of contracts, trade mark disputes, disputes with public authorities such as antitrust and patent office disputes, enforcement of foreign arbitral awards.

## What is the most popular method of dispute resolution, other than litigation, within trade?

Until now, there are no effective ways

for resolving trade disputes other than domestic litigation and/or international commercial arbitration. The law on mediation, though in force for a couple of years, has not yet resulted in the evolution of mediation practices, with reported cases being even less than a handful. One should note, however, that the number of court cases resolved amicably by way of settlement has seen a further (slight) increase in 2012.

The history of the YUST Law Firm dates back to 1992, the beginning of an era of major changes in the economic and legal environment of Russia due to the transition from USSR to the Russian Federation. The Firm currently employs more than 70 attorneys and lawyers in Moscow, as well as in Kiev and Donetsk (Ukraine). YUST has been constantly praised for its excellent reputation in the legal market by its peers, as well as by independent trade promotion agencies. **LM**

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