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Committee on International Trade

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DRAFT RECOMMENDATION

on the draft Council decision on the conclusion, on behalf of the European Union, of the Agreement in the form of an Exchange of Letters between the European Union and the Government of the Russian Federation regarding the preservation of commitments on trade in services contained in the current EU-Russia Partnership and Cooperation Agreement
(16815/2011 – C7-0522/2011 – 2011/0328(NLE))

Committee on International Trade

Rapporteur: Gianluca Susta

Symbols for procedures

- * Consultation procedure.
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the draft Council decision on the conclusion, on behalf of the European Union, of the Agreement in the form of an Exchange of Letters between the European Union and the Government of the Russian Federation regarding the preservation of commitments on trade in services contained in the current EU-Russia Partnership and Cooperation Agreement
(16815/2011 – C7-0522/2011 – 2011/0328(NLE))**

(Consent)

The European Parliament,

- having regard to the draft Council decision (16815/2011),
 - having regard to the draft agreement in the form of an Exchange of Letters between the European Union and the Government of the Russian Federation regarding the preservation of commitments on trade in services contained in the current EU-Russia Partnership and Cooperation Agreement (COM(2011)0724),
 - having regard to the request for consent submitted by the Council in accordance with Article 91, Article 100(2), Article 207(4) and Article 218(6), second subparagraph, point (a) of the Treaty on the Functioning of the European Union (C7-0522/2011),
 - having regard to Rules 81 and 90(7) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on International Trade (A7-0000/2012),
1. Consents to conclusion of the agreement;
 2. Instructs its President to forward its position to the Council and Commission and to the governments and parliaments of the Member States and of the Russian Federation.

EXPLANATORY STATEMENT

Background: GATS commitments entered into by Russia in connection with its accession to the WTO

The EU-Russia agreement regarding the preservation of commitments on trade in services contained in the current EU-Russia Partnership and Cooperation Agreement must be viewed in the light of the new legal framework arising from Russia's recent accession to the World Trade Organisation.

As a result of that accession, Russia will become a country that is relatively open to foreign services. It must be borne in mind that the Russian services market did not really start to develop until the 1990s, after the implementation of economic reforms involving privatisation and liberalisation of the country's economy.

Twenty years later, major restrictions on imports of services and the establishment of foreign service providers remain in place in Russia. However, the schedules for the liberalisation of trade in services included in Russia's multilateral accession package¹ will give foreign service providers substantially greater access to the Russian market. Russia has agreed to lower its barriers to trade and investment and to grant more favourable treatment than it did previously to foreign service providers in 11 sectors (containing a total of 118 sub-sectors) covering professional services, IT services, construction, postal services, telecommunications, media, transport, distribution, tourism and travel, and financial services (insurance, banking, financial markets).

Those commitments go furthest in modes 1 (cross-border supply) and 2 (consumption abroad) and are more limited in mode 3 (commercial presence, i.e. foreign companies setting up operations in Russia) and mode 4 (presence of natural persons in Russia), which are naturally more sensitive for Russia. Officially, in a large number of service areas, Russia has also undertaken to reduce market access restrictions and put an end to almost all national treatment, so as not to discriminate against foreign operators.

- The most noteworthy commitments include the concessions granted in the telecommunications sector, with the phasing out over a four-year period of the current 49% limit on foreign participation in the share capital of telecommunications groups and the decision to apply the terms of the Agreement on Basic Telecommunications Services (fourth additional protocol to the GATS). Russia will need to ensure transparent, non-discriminatory regulation of the telecommunications sector, in particular as regards the granting of licences and the allocation of frequencies; practice in this area has tended to be rather opaque and non-competitive to date. It is to be regretted, however, that major restrictions will continue to apply to the provision of satellite telecommunications services from abroad (mode 1), officially on national security grounds.

¹ Report of the Working Party on the Accession of the Russian Federation to the World Trade Organisation (WT/ACC/RUS/70, WT/MIN(11)/2) and the Addendum thereto, Part II – Schedule of Specific Commitments on Services – List of Article II MFN Exemptions (WT/ACC/RUS/70/Add.1; WT/MIN(11)/2/Add.1) of 17 November 2011.

- In the financial sector, the commercial presence of foreign insurance firms on the Russian market will be authorised, subject to a number of restrictions, nine years after Russia's accession to the WTO. Foreign banks will be able to set up subsidiaries and there will no longer be any limit on foreign ownership of shares in individual banks in Russia, although foreign capital participation in Russia's banking system as a whole will remain restricted to 50% (although this will not apply to foreign capital invested in banks when they are privatised). Nonetheless, care will need to be taken to ensure proper competition between operators, given that the Russian State still has substantial shareholdings in commercial banks, either directly or through the Bank of Russia, including a majority shareholding (58%) in the bank which is currently in a dominant position on the Russian market and which enjoys unlimited government guarantees for its deposits.
- In the tourism sector, foreign operators (travel agencies and tour operators) will be able to hold no more than 49% of the capital of Russian firms for a seven-year period, at the end of which that restriction will be lifted. However, hotel and restaurant operators may set up business activities in Russia under the same conditions as domestic operators, with no discrimination.
- Foreign operators now have wide access to transport services – in particular maritime, road and inland waterway services – both for freight and for passengers. There has not been any substantial change to the situation in the inland waterway sector, which was already relatively open. However, WTO accession does not appear to have brought any major improvements for airlines.
- With regard to distribution services, Russia will allow 100% foreign-owned firms to operate in the wholesale, retail and franchise sectors. The only major restrictions in this area apply to the distribution of pharmaceuticals and medical products and the wholesale trade in alcoholic goods.
- In connection with the presence of natural persons, intra-corporate transfers of staff and professional contacts with a view to setting up a business in Russia (business visits) will be facilitated.
- In the IT and construction sectors, Russia undertakes to grant full access to the market, together with national treatment, in all supply modes. .

The rapporteur would draw attention to the significance of these commitments and their potential benefits for the European Union. Currently, trade in services accounts for some 20% of EU exports to Russia (€22.6 billion in 2010). The commitments made by Russia will not only provide new business opportunities for EU firms; they will also improve the business environment – not least as regards non-discrimination and free competition – for EU exporters and investors already working with Russia. What is more, greater competition should increase the supply and raise the quality of services in Russia in a large number of sectors, which could make it easier to EU firms established in Russia to do business. One indicator of how things currently stand in this respect is the fact that, in the World Bank's Doing Business 2012 rankings, Russia comes last of 183 countries in the 'Getting electricity' category.

The rapporteur would point out, however, that, for the Russian Government to be able to

implement many of the concessions, in particular those relating to foreign companies setting up operations in Russia (mode 3), major adjustments will need to be made to Russian law, in particular trade and competition law and customs regulations.

Furthermore, changes to legislation governing or affecting trade in services will have no practical effect unless they have the backing of a constitutional State capable of guaranteeing the independence and probity of the agencies responsible for implementing the relevant laws and regulations, including the authorities responsible for sectoral regulation (with particular reference to the rules and procedures for granting licences) and the courts responsible for settling disputes.

The European Union will therefore need to monitor both legal and practical developments in order to ensure that Russia's service markets are opened up in accordance with the multilateral commitments made by the Russian Government. For its part, Russia will be answerable to the other WTO members for the progress it makes in implementing its commitments and will need to take due account of the concerns voiced by members of the organisation, as reflected in the report of the Working Party on the Accession of the Russian Federation.

Rapporteur's position on the bilateral agreement on the preservation of commitments on trade in services

In many service sectors, the WTO trade liberalisation commitments made by Russia go further than the arrangements that have applied to date to EU firms under the terms of the Partnership and Cooperation Agreement signed in 1994 and implemented since 1997. Following Russia's official accession to the WTO, its commitments under the 1994 EU-Russia agreement will go further than those it has made within the GATS multilateral framework in only two service sectors, namely maritime trade and the temporary movement of natural persons for business purposes.

The two parties have concluded the agreement currently before us so that the EU may continue to enjoy more favourable arrangements than those available under the multilateral regime. The agreement stipulates that Russia will apply for a most favoured nation (MFN) exemption from its GATS commitment, and on the basis of that exemption will continue to give the EU more favourable treatment in these two sectors on an exclusive basis. The bilateral agreement details the preferential treatment that is to be granted exclusively to the EU. The agreement does not require the EU to make any new commitments.

The rapporteur recognises the globally positive effect of anchoring the Russian Federation to the World Trade Organisation (as endorsed by the Council¹), which underpins the rule-based multilateral trading system, and accepts the need for the EU to conclude a bilateral agreement with Russia in order to secure additional bilateral trade concessions over and above those available under the multilateral regime, thus preserving the current commitments on access to the Russian market for EU providers in the two service sectors referred to above.

¹ Council Decision of 14 December 2011 establishing the position to be taken by the European Union within the relevant instances of the World Trade Organisation on the accession of the Russian Federation to the WTO (2012/17/EU).

Finally, in the trade-related sections of the new bilateral agreement between the EU and Russia that is currently being negotiated and will replace the Partnership and Cooperation Agreement concluded in 1994, the bilateral commitments entered into 20 years ago will need to be updated, in particular in order to secure additional commitments from Russia in modes 3 and 4 under the chapter on trade in services and the right of establishment. That chapter should also consolidate the rights of EU service providers setting up operations in Russia.

The rapporteur accordingly endorses the agreement and recommends that Parliament should consent to its conclusion.