



OECD WORKSHOP INVESTMENT AND BUSINESS CLIMATE IN THE RUSSIAN FEDERATION: A REGIONAL PERSPECTIVE

ST. PETERSBURG, 9-10 NOVEMBER 2005

DRAFT AGENDA AND ISSUES FOR DISCUSSION

Introduction

1. The workshop is organised as a part of the OECD Investment Committee co-operation programme and the dialogue of the OECD Working Group on Bribery with Russia. It benefited from the financial support of the European Commission. The Russian North-West Investment Development Agency also actively participated in the preparation of this event. The objective of the workshop is to address the role and responsibilities of Russian regions in shaping a competitive investment and business environment (“investment module”) and in enhancing business integrity and engaging in private-public interaction in the fight against corruption (“business integrity module”).

2. To encourage consultations between governments and business representatives, which are critical for developing investment-friendly environment and building up successful anti-corruption policy, the workshop will put together the officials from Russian federal and regional administrations and representatives of the private sector, including foreign investors, and officials and experts from OECD countries. Representatives from Russian and international institutions and international non-governmental organisations having a particular interest in regional investment issues and anti-corruption work will also participate in the debate.

3. Documentation for the workshop (available on the OECD website at the following address: www.oecd.org/daf/investment/development) includes several studies and a number of OECD documents and publications dealing with issues addressed in the workshop¹. This draft agenda presents the main themes of the workshop and suggests questions proposed for discussions. (A glossary of selected terms and concepts relevant for this workshop is issued separately).

4. The three sessions of the workshop will each start by short presentations by main speakers, which will introduce the issues of the session. These presentations will be followed by free discussion and exchange of views among participants. (A more precise timetable of the workshop with the list of main speakers will be available the first day of the meeting).

¹ In addition, several regional studies prepared for the workshop will be sent to registered participants.

9 November

Session I (morning)	Business and Investment Climate in the Russian Federation Regions: Setting the Stage
Session II (afternoon)	Business Integrity and Private-Public Interaction in the Fight Against Corruption: Progress and Challenges

10 November

Session III (morning)	Policy Options for the Russian Federation and Russian Regions in Light of OECD Experience in Promoting Investment and Enhancing Business Integrity and Public-Private Partnership in the Fight Against Corruption
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Session I: Business and Investment Climate in the Russian Federation Regions: Setting the Stage

5. Foreign direct investment remains highly concentrated in a few Russian regions, which either offer an easy access to large local markets (especially Moscow, St. Petersburg and surrounding regions) or benefit from rich natural endowments (e.g. Sakhalin region). In contrast, most other Russian regions have not succeeded to attract significant foreign investment inflows. Enhancing the investment climate in the regions so far neglected by foreign investors is thus one of the important objectives of Russia's investment policy.

6. Governments play a key role in maintaining political and macroeconomic stability and developing good infrastructures, which are prerequisites to attract foreign and domestic investment. However, regional authorities also have considerable responsibility in contributing to create business and investment-friendly environment. Analytical studies (such as the OECD 2004 Investment Policy Review of the Russian Federation) and various investor surveys have identified a number of specific impediments which continue to hinder investment and business activities in Russia. In addition to explicit foreign investment restrictions such as limits on foreign participation in specific sectors (e.g. in banking), the barriers considered as the most harmful by the business community are: complex and insufficiently transparent regulations, excessive administrative controls, insufficient consultations by the government on planned regulations and incoherency between federal investment-related legislation and its application by regional and local authorities.

7. An OECD investor survey of foreign firms operating in Russia conducted in the first half of 2005 focused on availability and transparency of information on governmental policies and regulations, implementation procedures, especially at the regional level and the adequacy of consultations procedures between the government and business community. The results of the survey show that in general foreign investors consider the access to relevant information on legal and regulatory measures relatively satisfactory, but complain about insufficiently transparent and uniform implementation of existing regulations at different governmental levels. Another important concern of foreign investors is the lack of consultation procedures with authorities on planned measures.

8. The three regional studies prepared for this workshop (on situation in Astrakhan, Bashkortostan and the North-West Region) show that the regions have used various fiscal and other incentives schemes allowed within the existing federal legislation and developed different institutional structures for promoting foreign investment. Although some regions have been more successful than others in increasing their investment attractiveness, current foreign investment inflows remain below the regions' economic and human potential and their investment needs. The recently adopted law on "Special Economic Zones" is

seen by many regional experts and officials as a means to increase participation of foreign investors in regional economic development.

9. Several issues might be addressed in this session:

- i) To what extent do the results of the 2004 OECD foreign investor survey on investment policy transparency and implementation in Russia correspond to participants' perception of the business climate in Russia in general and more particularly in Russian regions?
- ii) Are there any regional specific experiences that have been successful in improving information access (eg, development of electronic database on regional conditions and business-related regulations) and/or in engaging an efficient regional dialogue with the business community, including with foreign investors?
- iii) What are experiences of regional investment promotion agencies? How do they see their specific role in the national context and in relations with regional authorities?
- iv) How do the participants evaluate the possible impact of recent legislation concerning the SEZ on regional economic development and foreign investment?

Session II: Business Integrity and Private-Public Interaction in the Fight against Corruption: Progress and Challenges

10. The fight against corruption is an important policy objective of the Russian government. Since domestic and foreign investors view corruption as a major obstacle to their establishment and daily operation in Russia, the federal government and regional authorities seek to enhance business environment in conformity with recent international investment and integrity standards. The Russian Federation has signed a number of international anti-corruption conventions and applied to access to the OECD Anti-Bribery Convention in 2000. The Russian Federation also participates in the Istanbul Anti-Corruption Action Plan, which supports development and implementation of a review process to fight corruption.

11. Governments are responsible for putting in place and adequately inform society and business of their commitments to different legally binding as well as non-binding instruments aimed at improving trade and investment conditions and fighting against corruption. In particular, they should establish and promote laws aimed at improving integrity and outlawing bribery and related crimes, such as money-laundering, accounting and fraud, impose new requirements on corporations, their boards and managements and also on accountants and auditors. It is essential that governments ensure that companies and concerned professionals are aware of applicable international instruments and conventions, national legislation and potential sanctions they face if they breach such provisions. Government action alone, however, is not enough.

12. Complementary and mutually supportive actions by the business community, trade unions and civil society actors are recognised to be increasingly important. Companies are expected to comply with the various laws that apply to them. In addition, they must also respond to societal expectations that are not written down in law books. Business increasingly plays a fundamental role in the development of preventive, self-regulatory measures to eliminate malpractices and fraud. High standards of governance and integrity not only minimise risks of corruption, they also directly benefit the corporation by generating improved public trust, which may improve their ability to attract investment. Since the 1990s, firms of all kind have developed programmes to enhance integrity and fight corruption. These programmes, which consist of value statements, company codes of conduct, training programmes and reporting mechanisms, prove to be efficient for improving rules and corporate behaviour, in particular helping to regulate the behaviour within the companies and relations with their clients, suppliers, associates and public administrations.

13. Consultations between governments and business representatives are an essential building block for successful anti-corruption policy and contribute to the establishment of a fair and transparent business environment. For example, government information leaflets and seminars can help promoting good business practices and ethical behaviour between private firms and government officials and influence the adoption of corporate social responsibility tools.

14. An integrity study commissioned by the OECD was carried out in August-September 2005 in two regions of the Russian North-West – Novgorod and Tver. The study reviews: (i) the current institutional framework established by the local governments in view of business integrity; (ii) existing business tools in the regions to prevent and fight corruption and (iii) the role of civil society in developing the regulatory environment or defining societal expectations regarding integrity. It shows in particular that, although the detrimental effects of corruption are well known, few initiatives, if any, have developed in view of enhancing business opportunities and integrity. The study's findings corroborate with the evaluation of the Russian legal and institutional framework to combat bribery, raise accountability and integrity in business transactions, carried in October 2005 under the Istanbul Anti-Corruption Action Plan.

15. Based on the background material made available for this workshop, participants may wish to consider the following issues:

- i) Is Russia's existing legal anti-corruption framework sufficiently developed? What are the main legal and regulatory shortcomings? Have the federal or local governments taken steps to encourage integrity, both in the public and the private sector? In particular, are laws and regulations to prevent and fight bribery in the public sector implemented and enforced?
- ii) Have regional governments taken any additional steps to improve the business climate by reducing corruption opportunities in the public sector? Have they for instance cut back administrative discretion or stimulated a public-private exchange contributing towards the development of integrity tools?
- iii) Is business aware of the different anti-corruption initiatives and the corresponding tools? Has the business community encouraged or have individual firms engaged in, or adhere to activities that promote integrity?
- iv) Does civil society play a role in the Russian regions to promoting business integrity?

Session III: Policy Options for the Russian Federation and Russian Regions in light of OECD Experience in Promoting Investment and Enhancing Business Integrity and Public-Private Partnership in the Fight against Corruption

16. Recognising the contribution of international investment in countries' economic and social development, in particular to growth, job creation and technological innovation, the OECD has drawn on experiences of Member and Non-Member countries in developing sound investment environments. Several OECD instruments address good government practices, including the Declaration on International Investment and Multinational Enterprises, the Codes of Liberalisation, the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and Revised Recommendations of the Council on Combating Bribery in International Business Transactions. Other OECD initiatives are directed to the business sector, such as the OECD Guidelines for Multinational Enterprises. More recently, the OECD has been developing the Policy Framework for Investment, which proposes a set of policy considerations in several key inter-related areas (including governance and investment facilitation and promotion) that contribute to a sound investment environment.

a) *Investment module*

17. Different OECD instruments and initiatives regarding investment policy are mainly directed to central governments, but a number of recommendations are nevertheless also relevant for regional authorities, in particular in the area of investment promotion and facilitation. Russia seems to be in an early stage of development of its regulatory and institutional framework for investment promotion and facilitation. As illustrated by regional studies prepared for this workshop, Russian regions have adopted different approaches in their regional investment promotion activities: many regions created special Investment Promotion Agencies and/or put in place special investment promotion programmes. In this context, Russian federal and regional authorities might consider several policy options and recommendations:

- i) Designing a clear overall strategy for developing a sound, broad-based business environment which is a prerequisite for making investment promotion and facilitation measures effective.
- ii) Streamlining administrative procedures with active participation of regional authorities to reduce administrative burden on new as well as already established investors.
- iii) Establishing mechanisms for the evaluation of the costs and benefits of investment incentives and their appropriate duration, both at the federal and regional levels. Co-ordinating the regulatory and incentive framework at different governmental levels to prevent incentives offered by different authorities from “cancelling each other out”.
- iv) Based on experiences of other countries, reviewing the structure, mission and legal status of Russian federal and regional Investment Promotion Agencies (IPA), including the role and relations of regional agencies vis-à-vis the federal IPA.

18. At present, only regional authorities have been authorised to provide fiscal incentives to foreign investment in Russia. The new Russian legislation on SEZ will give further possibility to the regional authorities to offer fiscal and other incentives to investors interested in establishing in these areas. The following issues related to SEZ should be addressed when designing their regulatory framework:

- i) Access to a SEZ should be based on objective criteria. Discrimination between companies on the basis of nationality and/or sectors should be avoided. At the same time, authorities must assure themselves that companies allowed into an SEZ are able and willing to comply with applicable law and commonly agreed social and environmental standards.
- ii) Incentives should be clearly defined, awarded in a transparent manner and, to the greatest extent possible, rule-based. To avoid irregular or un-transparent practices there is a need to limit administrative discretion.
- iii) Linkages between enterprises located in SEZ and the rest of the host country should be encouraged. The ultimate goal should be to widen the economic achievements of the SEZ to the whole economy. However, insofar as SEZ operate as customs-free zones, proper customs procedures must be observed so as not to give companies located inside the SEZ an unfair advantage over their domestic competition.

b) *Business integrity module*

19. Russia is currently in the process of reviewing its domestic anti-bribery provisions in order to bring them up to the international anti-corruption standards. The domestic legal and regulatory framework will notably aim at meeting the OECD Convention on Combating Bribery of Foreign Public Officials in

International Business Transactions, the Council of Europe Criminal Law Convention as well as the United Nations Convention against Corruption.

20. Criminal anti-corruption provisions by governments encourage companies to introduce systems granting for global compliance. The OECD Anti-Bribery Convention, for instance, makes companies liable for the behaviour of their employees, including those of local branches and affiliates and to some degree of their business partners (agents, intermediaries). Though, companies may be inclined to take wide-ranging, internal measures against corruption instead of withdrawing or stay away from corrupt markets.

21. Tools such as codes of conduct or more generally compliance programmes are important, innovative instruments that can regulate the behaviour within companies and relations with clients, suppliers, associates and public administrations. Organisations such as the OECD, the United Nations (UN), the World Bank, the International Chamber of Commerce (ICC), Transparency International (TI) and others, have developed recommendations, broad-based principles or best practices to help establish corporate governance and integrity.

22. Based on available documentation and exchange of views during the workshop, participants may consider in the light of other countries' experiences what could be the main steps to enhance business integrity and public-private partnership in the fight against corruption in Russia, taking into account possible contribution of different levels of governments and the private sector in these areas. In developing such an action plan, the following recommendations might be addressed:

- i) Ensuring that penal, administrative and civil law provisions provide a consistent legislative and regulatory framework for fighting corruption as well as promoting integrity.
- ii) Putting in place adequate institutions and procedures for effective and consistent application and enforcement of laws and regulations on anti-corruption and integrity in the public service. Developing specific mechanisms to address risk areas for corruption. Providing guidance to help public officials meeting expected standards in daily practice.
- iii) Designing review mechanisms at the federal and/or regional levels to assess the application and enforcement of anti-corruption legislation. Ensuring that civil society organisations and the media actively support public scrutiny over public officials' behaviour.
- iv) Identifying adequate contact points and developing mechanisms for engaging the public and private sector in a regular dialogue to exchange views on business rules and regulations. Developing standards to guide public officials' behaviour, in particular in those administrations mostly in contact with private sector representatives.
- v) Organising an information exchange and expanding the overall understanding of the need to act with integrity. Considering the assistance of foreign investors that adopted codes of conduct and/or compliance programmes, in developing further anti-corruption and integrity instruments and initiatives, including private sector integrity tools.
- vi) Searching the elements which favour public-private dialogue, the enforcement of laws and regulations and stimulate the application of ethical codes and integrity programmes in the Russian Federation and its regions.