

**Editor's note**

BISS proudly presents the first issue of its new regular product entitled **Eurasian Review**, which presents the findings of the analysis of Eurasian integration processes. Each issue of this publication will comprise two articles—in the first one, experts will focus on recent political and economic trends and events of the Eurasian integration, whereas the second one will be the main feature of the issue.

The Eurasian integration is becoming an increasingly important factor determining the relationship between Belarus and Russia as its key political and economic partner. The integration project also has an increasingly significant effect on our everyday life. For instance, the rates of import duties set in the framework of the Customs Union of the Eurasian Economic Community directly affect the prices of imported commodities (vehicles being a characteristic example), newly adopted technical regulations set quality and safety standards for the products we consume, and arrangements to establish a single labor market determine labor migration trends.

The meeting of the Supreme Eurasian Economic Council that was held on 29 April 2014 confirmed Russia's intention and willingness to retain its exclusive control of the transport infrastructure, which incorporates, among others, the network of oil and gas pipelines, which helps Russia maintain its leadership in Eurasia. During the summit, the heads of state of the Eurasian troika made two significant decisions, one of which aims at deepening integration, while the other one is instrumental in broadening it.

First, the Eurasian Economic Commission in association with the national governments has been instructed to finalize the draft Treaty on the Eurasian Economic Union and submit it to the member-states by 12 May. Second, the draft Treaty on the accession of Armenia to the Customs Union and Common Economic Space is supposed to be ready by 1 June 2014.

In his article focusing on the latest developments in the Eurasian integration BISS analyst *Andrei Yelisseyeu* explains the positions and arguments of the Eurasian partners on the oil issue at the recent summit. He clarifies the fundamental difference between the Eurasian integration and its unsuccessful predecessors in the former Soviet Union, dwells on its economic substance, and analyzes the political prospects of the Belarusian ruling elite drawing on the essence of the Eurasian agreements.

The main feature of the first **Eurasian Review** issue is the development of the Eurasian integration in the protection of competition and antimonopoly regulation. It is in this framework that the Eurasian partners will have to resolve the intricate issues of the demonopolization of energy supplies and creation of a single market for oil and oil products. In his article expert *Aliaksandr Aleshka* argues why the Eurasian troika finds it hard to come to an agreement in this area, describes the stages of the adoption of the unified legislation on the protection of competition, analyzes the novelties found in the new version of the Belarusian antimonopoly law and provides insight on the prospects of the Eurasian integration progress in antimonopoly regulation.

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Eurasian Review Editor

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## Pinnacle of the big Eurasian game

*Andrei Yeliseyev*

The day is drawing nearer when the Treaty on the Eurasian Economic Union (EAU) is scheduled to be signed—29 May 2014—and so is the pinnacle of the big integration game in the former Soviet Union (FSU). Apparently, the debate between the Eurasian partners concerning political and economic issues will continue even after the agreement has been signed, the more so because a full-scale common market based on the achievement of “four freedoms” (free movement of goods, services, workforce and capital) with no exceptions and exemptions will not be launched starting 2015. However, the EAU Treaty cements the system of decision-making within the Union and fixes the basic economic rules of the game, thus identifying the balance between costs and benefits of each party for the short- and medium term, therefore so much is at stake now.

### Eurasian integration as a breakthrough stage

Unlike previous FSU integration initiatives that proved ineffective, the Customs Union (CU), Eurasian Economic Community (EurAsEC) and the Common Economic Space (CES) turned out to be operational institutions, albeit with numerous exclusions from the principles of free trade. Unlike their less successful integration predecessors in the region, the CU and CES commitments are put not only on paper, but also in practice. As of today, Belarus, Russia and Kazakhstan apply unified rates of customs duties to third countries, have eliminated many non-tariff trade barriers and are working hard to unify standards and norms in various areas, have lifted bans on labor migration and are making arrangements for the coordination of their macroeconomic and agro-industrial policies.

Moreover, each participant in the Eurasian integration is ready to make concessions in order to ultimately reach a consensus. On the one hand, the Belarusian authorities made an unpopular move when they increased the customs import duty on foreign vehicles. Kazakhstan increased its original national customs tariff rates by more than a half to meet its CU obligations. The tighter controls on the external customs border of the CU member-states resulted in a significant reduction in the smuggling of Chinese-made goods from Kyrgyzstan, which entailed a rise in prices of some categories of goods (clothes, electronics, and household appliances) for consumers in Kazakhstan. On the other hand, Russia made steps to meet halfway with Minsk and Astana when it agreed to adopt tariffs that protect the key productions of its partners in their markets. As a result, in practice, the share of the Russian tariff in the context of the rates agreed in the CU framework [turned out to be](#) lower than it had been theoretically predicted and expected based on the assumption that Russia is a much bigger market than its CU partners.

Judging by the results of the summit of the Supreme Eurasian Economic Commission, which took place on 29 April 2014, Russia has no plans to establish a single market (which envisages single import and export duties) for oil and oil products starting 2015. However, given the consent of the parties to sign the EAU Treaty in late May and the principled position of President Lukashenka, who raised the rates ahead of the summit (saying “if we are not ready now, then let us sign the deal in 10 years”), one could expect that Russia would either increase the oil rent for Belarus or propose another mechanism to subsidize its ally based on an individual bilateral arrangement.

Russia’s plans became clear on 9 May—in 2015, it will not collect about half of the total volume of the export duties on oil products; i.e. subsidies will increase by approximately USD 1.5 billion. It cannot be ruled out that starting 2017 Belarus will be enabled to keep the entire amount of the export duties

applied to oil products produced from Russian duty-free oil (estimated at approximately USD 3.5 billion). Moreover, it was reported back in April that Russia would provide 23 million tons of crude oil to Belarus in 2014, exactly the amount that Belarus had requested. Furthermore, it was declared that Belarus would receive a USD 2 billion Russian loan to shore up its gold and foreign exchange reserves as early as May 2014. It became obvious that Russia is ready to subsidize the Belarusian economy and provide political support for Lukashenka ahead of the 2015 presidential election. A serious economic crisis in a partner country would affect the image and progress of the Eurasian integration, and Russia is not interested in such a scenario. Minsk must have also promised the Kremlin to meet halfway in the talks over the creation of joint ventures. It is also possible that shareholdings in Belarusian oil refineries will in mid-term be sold to Russian businesses.

### **Benefits of the regional economic integration**

How do/will the Customs Union, Common Economic Space and the anticipated Eurasian Economic Union contribute to the economic growth and improvements in living standards in the EAU member-states?

First, the elimination of customs stations between the countries in question expedites commodity flows and cuts costs in mutual trade, because an additional day of delay in the delivery of goods results in an increase in their prices by several percentage points. The abolition of non-tariff barriers in the form of sanitary and phytosanitary norms applicable to foods and crops and technical barriers in trade facilitates the work of exporters, which would otherwise have to pay additional charges for additional certification procedures or bribes for the successful qualification of the delivered goods. Further, some goods traded between the CES member-states should become cheaper as a result of the unification of rail transportation tariffs.

Second, a deeper economic integration is capable of initiating a series of positive structural economic benefits, including a more effective use of labor and capital, production cooperation and increase in return rates due to collaboration in research and development. For instance, Russia is planning to promote cooperation ties with Belarus in the automotive industry, defense and space sectors, and telecommunications. The two countries also negotiate five joint ventures—between MAZ and KAMAZ, Grodno Azot and Gazprom, Peleng and Roscosmos, Integral and Ruselectronics, and MZKT and Rostec. Russia and Kazakhstan are planning to pursue integration projects in ferrous and non-ferrous metals industries, nuclear and aerospace sectors. To successfully compete with the world's leading producers in foreign markets, manufacturers need to be consolidated, merged or ousted from the market. Agreements in the framework of the CES and the EAU Treaty envision the equal access of companies and other economic entities to the services provided by monopolies in the energy sector, transportation and other areas, which is expected to foster competition and partially demonopolize markets.

Third, in a longer term, institutional economic effects are supposed to come into play, such as enhanced competitiveness of the economies and companies, and equalized social and economic development of the regions and member-states of the Eurasian integration project. The increased competition with foreign markers, which will be granted equal access to the operation in the local market, will encourage modernization.

While we can already observe the positive impact of the elimination of non-tariff barriers in the cross-country trade between the Eurasian troika member-states, the question remains whether the three countries will continue to sincerely meet the commitments fixed on paper, i.e. to ensure free movement of goods and services and equal terms and conditions for investment while refraining from

any new non-tariff barriers and offering transparent tendering terms inviting companies from the partner countries to make their bids. In conditions of the dampened economic growth in Russia and Belarus, the Eurasian economies might introduce protectionist practices and stimulate import substitution, including for goods from the CES partner countries, in order to use their national companies to their capacity. Another decisive factor is the effectiveness of the EAU's supranational bodies, which will supervise the situation in the sectors under their control, specifically, whether these supranational authorities will be able to make decisions binding on the national institutions.

### **Eurasian integration and Belarus's long-term national interests**

While acknowledging the potential positive economic impact of the Eurasian integration on the Belarusian economy, one should not overemphasize its benefits from the point of view of Belarus's long-term national interests. The Eurasian integration pegs Belarus to Russia, both institutionally and economically, even tighter than before, and isolates it from the integration processes with the European Union.

First, the European integration is based on the principles of freedom, democracy, respect for human rights and fundamental freedoms, as well as the rule of law, which is clearly stipulated in the Treaty on European Union (TEU). The integration with the European Union envisages not only a reform of economic institutions, but also the liberalization of political institutions. Unlike the EU, the Eurasian Union is in reality an association of authoritarian countries with no rule of law and free and fair elections<sup>1</sup>, despite the formal commitment to democratic principles stated in the respective national constitutions. A typical example of the existing problems with electoral democracy in the three "Eurasian" countries is the fact that Aliaksandr Lukashenka, Vladimir Putin and Nursultan Nazarbayev have served as heads of state for a total of 58 years.

Second, the engagement in the European integration is built on the support and promotion of cultural diversity (which is crucially important for Belarus, given the fact that the national language is being driven out of public life), as well as respect for sovereignty and territorial integrity. At the same time, Russia neglects these principles with respect to the countries that prefer the European integration option to the Eurasian integration project (Moldova and Ukraine). Given the heavy dependence of the Belarusian economy on Russia, the involvement of Belarus in the Eurasian integration raises a sensitive rhetorical question: will Belarus ever be able to withdraw from this process, and what consequences would such a move have for Belarus?

Third, there is another important question, namely, how successful can Belarus be in modernizing its economy, developing its non-resource sectors of the economy and increasing added value of its export supplies in partnership with Russia (which lags behind Europe in its technological advancement)? In the long term, the integration with the European Union could provide stronger economic growth and improvements in living standards of the population than the anticipated economic impact of the Eurasian integration.

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<sup>1</sup> Based on The Democracy Index compiled by the British research center The Economist Intelligence Unit, Russia, Belarus and Kazakhstan have ranks 122, 141 and 143 of the 167 analyzed nations. See <http://pages.eiu.com/rs/eiu2/images/Democracy-Index-2012.pdf>

### Key discrepancies: energy and competition policy

Back in February 2014, the website of the Ministry of Economic Development of the Russian Federation posted the [text of the functional part](#) of the Treaty on the Eurasian Economic Union; and in April 2014, the combined draft of the sections of the functional part and exhibits were made public on more than five hundred pages. The draft institutional version of the Treaty is still unavailable to the broad public. It is known for certain that the EAU will not be a full-fledged political union, because the presidents of Belarus and Kazakhstan disagree in principle to lose political sovereignty.

A remarkable fact is that even in the existing system of decision-making within the CES the Russian side does not enjoy a priority status despite its economic dominance. The Supreme Eurasian Economic Council is the body responsible for overall political management. The Council and Board of the Eurasian Economic Commission, the CES's supranational body, are formed based on the balance of representation, meaning the equal number of members representing each party, and approve decisions either unanimously or by a majority vote. Russian used to have 57% of votes in the CU Commission, and Belarus and Kazakhstan used to split the remaining 43% of votes in two equal halves (and decisions were approved by a 2/3 majority vote). It looks like Russia agreed on the "one country–one vote" pattern in order to encourage Ukraine to eventually join the Eurasian community thus allaying fears of Russia's monopoly in the Eurasian institutions. However, as a result of the recent political events, it is highly unlikely that Ukraine will ever accede to the EAU. The decision-making system in the EAU supranational bodies will probably look like the one effective in the CES.

The most significant economic provisions governing the operation of the EAU are listed in more than 30 Exhibits to the Treaty. The Protocol on the procedure for the organization, management, operation and development of the common markets for oil and oil products seems to have the most inconsistencies. This is hardly a surprise, because the essential financial gain of both Belarus and Kazakhstan, along with the political benefits of the Eurasian integration for both Lukashenka and Nazarbayev (a better chance to "bribe" voters), stem from the beneficial agreements concerning the export, import and transportation of energy resources. Judging by the latest draft Treaty on the EAU, besides the oil sector, the partners find it the hardest to agree on the rules of access to the services provided by the natural monopolies in natural gas transportation by pipeline systems, as well as the general competition and concerted transport policies.

### Essence of the oil card

According to a current agreement between Belarus and Russia, Minsk harmonizes the rates of its export duties applied to oil and oil products up to the Russian level, currently at approximately USD 400 per ton. Belarus receives Russian crude oil on a duty-free basis within an agreed quota (20.9 million tons in 2013 and 23 million tons in 2014) and returns the duty applied to the export of the oil products refined from Russian crude (USD 3.5 million annually) back to the Russian budget. Duty-free oil supplies are translated into about USD 5 billion worth of subsidies annually for the Belarusian budget. In Kazakhstan, the rate of the export duty on oil that exporters pay to the national budget stands at mere USD 80 per ton, as long as an increase in the rate would turn oil export into a loss-making business in Kazakhstan.

The most profitable version of the EAU Treaty for Belarus and Kazakhstan would be the one stipulating that Russia should not only stop collecting the export duties on the oil products refined from Russian crude, but also lift all limitations on the supplies of duty-free oil to Belarus and allow Kazakhstan to supply its crude oil to Belarus via the territory of Russia at Russia's domestic rates. If Belarus were also allowed to set its own, lower export duty on oil, Minsk would reap additional

benefits, while Russia would have to pay additional costs, because Russian companies would prefer to export oil via its Eurasian partner countries. Deputy Minister of Finance of Russia Sergey Shatalov said that such a combination would result in a fivefold increase in Russia's combined subsidy to Belarus and Kazakhstan, to an estimated USD 30 billion annually.

Naturally, such a move by the Russian side would be too big a concession, especially now that Russia seeks to keep the energy infrastructure under its sole control and given the ongoing recession in the Russian economy. In case Belarus and Kazakhstan should stick to their position of principle, Russia has prepared a counter-proposal codenamed "a big tax maneuver". In order not to allow "leaks" of its oil via Belarus and Kazakhstan, Moscow suggests cutting its export duty on oil and oil products to the level effective in Kazakhstan while making up for the losses of the national budget through increases in the mineral extraction tax. Essentially, in response to the proposal by Belarus and Kazakhstan to establish a "real" single market, Russia threatened to implement the model of an even more full-fledged common market. Such a scenario envisages the unification of not only import duties, but also export duties, which would be distributed between all the partners of the economic union proportionally to their exports.

It is the consequences of the "big tax maneuver" outlined by the Russian side that must have discouraged the Eurasian partners, which gave their tentative agreement to create a common market for oil and oil products subject to a 10-year transition period. First, the drastic changes in the taxation system in the oil and oil-processing sectors would pose risks to the Russian oil and chemical sector and the Russian budget. Second, if Russia raises its mineral extraction tax rates, oil prices will rise as well, thus making the Belarusian oil refineries less profitable, maybe even loss-making. Furthermore, the "big tax maneuver" would entail a significant increase in prices of automotive fuel in the markets of the Eurasian partner countries. Therefore, Russia made an effective counter-argument to Belarus's liberal point regarding the development of a full-fledged single market with no exceptions and exemptions, and the Eurasian partners had to comply. Nevertheless, it had to meet halfway with Lukashenka ahead of the upcoming presidential election by consenting to collect only half of the total amount of the export duties on refined oil starting 2015.

### **Bilateral bonus in exchange for the absence of the single oil market**

For Lukashenka, who makes the key decisions concerning Belarus's political and economic development, the success or failure of the Eurasian agreements determines his own success at the presidential election, not even the 2015 election, but rather the 2020 election. Even if the results of the Eurasian negotiations prove to be unsatisfactory for the Belarusian ruling elite, the segmented and passive opposition forces will hardly have a chance to put an end to his 20-year tenure in 2015. Further, Lukashenka successfully plays the card of the situation in the region in connection with the Ukrainian developments, thus maintaining and even [boosting his rating](#).

It follows from the statement by the Chairman of the Board of the Eurasian Economic Commission, Viktor Khristenko, which was made following the meeting of the Supreme Eurasian Economic Council on 29 April 2014, that the common market for oil and oil products would not become operational starting 2015, while the transition period in that sector would take up to ten years. This evidence points to the fact that the Belarusian authorities have not managed to have the most favorable version of the EAU Treaty. However, the agreement concerning the 23 million tons of duty-free oil in 2014 and transfer of just one half of the total amount of the export duties on refined oil should be considered Lukashenka's achievement. Along with the USD 2 billion loan from Russia, this will help stabilize the economic situation in the country ahead of the presidential campaign of 2015. Moscow's consent in

principle to offer Belarus an even higher rent from the processing of Russian crude will increase the likelihood of Lukashenka's staying in power for at least another decade (based on the best-case election scenario in 2020), with all the benefits and disadvantages of the existing Belarusian political and economic system that come with it.

The principal conclusion of the Eurasian summit of 29 April 2014 and the bilateral agreements that followed is that the EAU Treaty will be signed as scheduled, and Moscow is ready to provide a bilateral financial bonus to Belarus with its expanding foreign trade imbalance. Incidentally, Minsk managed to procure such a bonus even before it signed the EAU Treaty. Russia is interested in the further use of the oil sector as leverage to keep the Belarusian authorities under pressure, including during the talks over the creation of joint ventures in manufacturing industry and increase in the share of Russian capital in the Belarusian oil refineries.

## MAIN FEATURE: Development of the Eurasian integration in the protection of competition and antimonopoly regulation

*Aliaksandr Aleshka\**

### Rationale for the adoption of the single legislation in the protection of competition

A single set of antimonopoly and competition regulations is the foundation of any effective economic union. The example of the European integration shows that the most crucial component of a successful economic union is the variety of independent supranational bodies enjoying wide-ranging powers, rather than the harmonized competition legislation.

The main objectives of the harmonization of the antimonopoly and competition legislation within the Common Economic Space (CES) are to do away with the unequal conditions for cooperation, introduce common antimonopoly and price regulations, ensure control of the state regulation of prices and state purchases, and eliminate trade barriers and non-tariff restrictions in the trade between the member-states. The practical examples of economic benefits from adopting such regulations include lower roaming rates, rail and air fares, as well as a reduction in prices of some imported goods. The legalization of so-called parallel imports allows cutting prices of imported car parts, perfumery products and household appliances.

The chief antimonopoly authority of the CES is the Eurasian Economic Commission (EEC), which comprises a special minister for competition and antimonopoly regulation (Nurlan Aldabergenov) and two departments (the Department for Antimonopoly Regulation and the Department for Competition Policy and Policy in State Purchases)<sup>2</sup> responsible for these issues. According to Aldabergenov, the three key priorities in the further integration of Russia, Belarus and Kazakhstan are the free movement of goods, elimination of barriers to trade and a unified approach to the competition policy<sup>3</sup>.

The main activities of the EEC with respect to competition and antimonopoly regulation include the control of anticompetitive practices of state institutions, exposure of barriers to trade between the economic entities of the CES and control of economic concentration and various types of price discrimination. The antimonopoly authorities of the EEC are in close cooperation with the national antimonopoly agencies. The decisions of the Department for Competition Policy are binding within the CES member-states. Once an injured party receives such a decision from the EEC's Department for Competition, it can immediately refer to bailiffs, who will execute the decision<sup>4</sup>. The decisions of the Commission can be appealed in the EurAsEC Court. However, because the number of appeals to the EurAsEC Court by CES economic entities and state institutions has increased, the court may take quite long to consider cases in dispute, which reduces the effectiveness of the appeal procedure. As of today, the EurAsEC Court has made rulings only on twelve cases, and few of them are indirectly associated

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<sup>2</sup> For more details on the Departments, log on the website of the Eurasian Economic Commission:

<http://www.eurasiancommission.org/ru/act/caa/dar/Pages/default.aspx>;

<http://www.eurasiancommission.org/ru/act/caa/cpol/Pages/default.aspx>

<sup>3</sup> Interview with Minister for Competition and Antimonopoly Regulation Nurlan Aldabergenov in Express-K newspaper // Archive of the Eurasian Economic Commission. 21.05.2013.

<http://www.eurasiancommission.org/ru/nae/news/Pages/21-05-2013-1.aspx>

<sup>4</sup> Marina Gorokhova, One Body for the Troika: The Antimonopoly Service of the Customs Union Is in the Pipeline. Rossiyskaya Gazeta. <http://www.rg.ru/2011/11/15/gorohova.html>

with the topic under review. It is also unclear how the principle of the autonomy of the EEC from the national governments will be implemented.

Although the Eurasian troika set itself a very ambitious goal that must be attained within a very short period of time, some factors suggest that the creation of a full-fledged economic union in the FSU with independent supranational bodies, in which the partners would enjoy truly equal rights, is highly improbable. Belarus, Kazakhstan and Russia are governed by strong authoritarian regimes and have semi-closed economies that are built on state monopolies. A full-fledged economic union based on a common policy on competition calls for the ultimate harmonization and complete transparency of all of the partner economies. Further, the economic potential of the Customs Union (CU) and CES member-states is very much different. An integration entity will only become operational if the conditions set forth by the Russian side are met by the member economies, while the interests of Belarus and Kazakhstan will be secondary, and minimum efforts will be made to accommodate their positions.

### **Stages of the adoption of the single legislation**

The single legislation of the CES in the protection of competition and antimonopoly regulation was planned to be implemented via the following joint activities of the governments of Russia, Belarus and Kazakhstan:

- The signing of the Agreement on the Unified Principles and Rules for Competition (December 2010), the first joint document in this area. The Agreement applied to rules for setting prices of natural gas for households, electricity, alcohol, pharmaceuticals, oil products, services of natural monopolies and state purchases.
- The introduction of amendments to the antimonopoly legislations of the CES member-states based on the signed Agreement on the Unified Principles and Rules for Competition (the three countries had amended their national laws on competition by the end of 2013).
- The adoption of the Model Law on Competition on 24 October 2013. The law is the key joint legislative act of the CES in competition. Although the document is not binding, it will serve as the foundation for the antimonopoly policies of the CES member-states in the coming years. The law bans anti-competition agreements, abuse of dominance and unfair competition. According to the legal experts who compiled the document, judging by the experience of the developed economies, it is one of the most perfect competition laws in the world<sup>5</sup>.
- The adoption of the Antimonopoly (Competition) Code of the CES, a basic document regulating all aspects of competition within the CES. The document is expected to be adopted in either 2016 or 2017. It is planned that the adoption of the Competition Code will become the final phase in the harmonization of the national competition legislations. It is only after the adoption of this document that the Eurasian Economic Commission will be able to resolve disputes arising between the CES member-states and their economic entities to the full extent.

### **Amendments to the antimonopoly legislation of the Republic of Belarus**

In November 2013, the parliament of the Republic of Belarus passed a new version of the Law “On the prevention of monopolistic activity and promotion of competition”, which regulates activities aimed at preventing monopolistic activities and unfair competition in Belarus. The adoption of the law is part of

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<sup>5</sup> Nurlan Aldabergenov, “Model Law on Competition in the CES” // Market and Competition magazine, 2013, No.2, <http://www.czk.kz/magazine/121/156/>

the process of the harmonization of the legislations of the CES member-states. Russia and Kazakhstan had amended their antimonopoly legislation before Belarus made the move. The main novelty of the law is the extension in the powers of the antimonopoly authority and specification of some norms, including those pertaining to:

- Bans on the activities by state institutions that restrain competition (bans on limitations on the free movement of goods within the Republic of Belarus, bans on state preferences (a loophole was left, though—“except for the cases provided for in the legislation”), bans on state agencies’ combining their functions with business entities.
- Changes in the mechanism of control of the reorganization of business entities leading to amalgamation and equity transactions (identification of the cases and threshold values providing substantial grounds to file an application to the antimonopoly authority; introduction of mandatory de-merger of the entity at fault).
- Dominance criteria (more than a 35% market share, same as in Russia and Kazakhstan)<sup>6</sup>.

Furthermore, the new version of the law (which comes into effect on 1 July 2014) adopts a series of new principles pertaining to the administration of antimonopoly legislation and operation of the Belarusian antimonopoly authorities:

- Transparency of the operation of the antimonopoly authority (availability of information on its activities in the media and the Internet);
- Application of the law to the financial services market (the market that appeals the most to entities with foreign capital);
- Ban on the coordination of economic activities by legal entities and individuals if such activities may result in restraints of competition;
- Introduction of the notification basis for reorganization of business entities and the rule that the acquisition of more than 50% of shares in an economic entity must be approved by an antimonopoly authority;
- Identification of admissibility criteria for economic concentration (production upgrade and benefits for consumers);
- Control of the participation of the same person in the management teams of various economic entities;
- Introduction of responsibility for economic concentration without the consent of the antimonopoly authority<sup>7</sup>.

Overall, once the said amendments were made, the gap between the Belarusian legislation and the regulations effective in Russia and Kazakhstan substantially narrowed. One of the most positive changes in the law was the specification of the ban on the activities of the state authorities aimed at restraining competition in the Belarusian market. The state authorities of the Republic of Belarus continue to pose the main threat to free competition. Another positive novelty of the new version of the law is the obligation of the state antimonopoly authorities to constantly inform the public about their activity. Nevertheless, the state has retained the entire toolkit to actively influence the work of big business in the country and is now capable of applying it to the financial services market.

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<sup>6</sup> Rationale for the adoption of the Law “On the prevention of monopolistic activity and promotion of competition” in the Republic of Belarus. Council of Ministers of the Republic of Belarus.

<http://www.parliament.gov.by/download.php/,-1,2,,,0,15,1,0.html?oid=706923&fid=429058>

<sup>7</sup> Law of the Republic of Belarus No. 94-3 dated 12 December 2013 “On the prevention of monopolistic activity and promotion of competition”. National Legal Internet Portal of the Republic of Belarus, 19.12.2013, 2/2092, [http://vedacons.by/sitefiles/1/48/97/Закона\\_№\\_94-3\\_«О\\_противодействии\\_монополистической\\_деятельности\\_и\\_развитии\\_конкуренции»\\_от\\_12.12.2013.PDF](http://vedacons.by/sitefiles/1/48/97/Закона_№_94-3_«О_противодействии_монополистической_деятельности_и_развитии_конкуренции»_от_12.12.2013.PDF)

It should be noted that as soon as the new law was passed, problems emerged in the practical implementation of the new legislative rules. They were primarily caused by the ban on the activities by the state authorities that restrain competition. In practice, the Belarusian authorities may start to ignore some legislative norms, especially the ban on imposing limitation on the free flows of goods in the territory of Belarus, the ban on providing state preferences and the ban on combining the functions of state authorities and economic entities. If the Belarusian state machine agrees to meticulously comply with these rules, it might partially lose its control of the operation of the national economy, which is unacceptable to the Belarusian administration. The adoption of the new version of the law on competition may have no serious consequences for the national economy. The Belarusian authorities will have complete freedom in interpreting the national legislation up until the moment the competition legislation of the CES has been finalized (the Competition Code).

### **Basic interests of the CES member-states in the protection of competition**

Unlike the European Union, which is a bloc of a few large economies of comparable size, the economic structure or the Common Economic Space is clearly dominated by the Russian Federation. Russia is the initiator and the main driver of the CES integration. The authorities of the Russian Federation essentially determine the form and essence of the FSU integration processes on their own. Based entirely on its own political and economic interests, Russia can make some concessions to its Eurasian integration partners and partially accommodate their political and economic interests. However, the CES member-states are well aware that they are the integration partners with only limited rights. Russia will be playing the defining role in the future supranational bodies of the CES, whereas Belarus and Kazakhstan will have to settle for the role of satellite states of the Russian Federation.

### **Interests of the CES member-states in the drawing up of the single legislation regulating the development of competition in Eurasia**

#### Russian Federation:

- To have Belarus and Kazakhstan adopt the basic Russian regulatory standards concerning competition and antimonopoly regulations. The Model Law on Competition signed by the CES member-states was de facto based on the Russian legislation, which was supplemented by some regulatory practices currently in effect in Belarus and Kazakhstan.
- To retain complete control by the Russian authorities of the crude oil market and transportation of oil products—one of the key levers for Russia to influence both Belarus and Kazakhstan. Despite the adoption of the common competition and antimonopoly legislation, which was supposed to lift barriers in trade within the CES, the Russian Federation is not interested in providing Kazakhstan with access to the Russian oil pipelines or selling unlimited volumes of crude oil to Belarus.
- To see to it that the authorities of Belarus and Kazakhstan comply with their CES commitments to meet the unified competition requirements. In the medium term, Russia will manage to extend its influence on the economies of Belarus and Kazakhstan, provided the two partners fully comply with the common competition rules. The main objective is to gradually deepen the economic integration with Belarus and Kazakhstan in order to increase Russia's political leverage in the FSU.

#### Republic of Belarus:

- To preserve the current economic system based on the state-run monopolies and sizeable budget subsidies to export-oriented companies.
- To maintain the developed system of non-tariff limitations on Russian import.

- To gain access to purchases of substantial amounts of crude oil at Russia's domestic prices while keeping minimum export duties on oil products.
- The main objective is to preserve the current model of economic collaboration with Russia: to exploit the potential of free trade with Russia while shutting its own market to foreign import as much as possible.

#### Republic of Kazakhstan:

- To have access to the Russian oil pipeline system in order to reach out to the European Union consumers with its oil.
- To enjoy cheaper import from the European Union and the CIS to effectively tackle intermediaries and unreasonably expensive logistics.
- To preserve the current system of state monopolies in the strategic sectors of the national economy.
- The main objective is to introduce more effective export and import channels in the trade with the European Union and the CIS.

### **Prospects of further integration in antimonopoly regulation**

Instead of addressing the basic discrepancies between the CES member-states in competition and antimonopoly regulation, the leaderships of the three countries decided to focus on secondary issues, such as roaming rates, air transportation and legalization of parallel import. Unlike the European integration process, which focused primarily on the resolution of the fundamental differences, the CES economies concentrate on adopting framework integration documents without fleshing them out.

The final version of the Eurasian antimonopoly legislation is scheduled to be adopted in two or three years, when the CES Competition Code has been finalized. Prior to that, most of the key controversial issues between Russia, Belarus and Kazakhstan will not be resolved. As the Eurasian integration progresses, the member-states will seek to sign framework agreements as soon as possible while putting off the resolution of the main integration challenges indefinitely. The effective practical implementation of the antimonopoly and competition legislation in the CES member-states is a complex problem. Each of the CES economies is based on strong state-controlled monopolies, which are protected by the governments of the CES member-states. According to the chief of the Federal Antimonopoly Service of the Russian Federation, Igor Artemyev, it is the state authorities that pose the main threat to the free economic operation in the FSU<sup>8</sup>. Even after the common antimonopoly legislation of Russia, Belarus and Kazakhstan has been adopted, the administrations of the three countries will continue ignoring the new antimonopoly rules in the areas that are deemed to be critical for the operation of the existing economic systems in these countries.

The authorities of Belarus and Kazakhstan have serious concerns that Russia will extend its economic and political influence in their territories as soon as the CES supranational bodies become operational and make sure that the union partners comply with the new integration legislation. Therefore, as long as Russia refuses to offer further concessions in oil supplies (for Belarus) or liberalize access to its pipelines (for Kazakhstan), Belarus and Kazakhstan will strive to keep as many exceptions in the legislation of the Eurasian Economic Union as possible in order to protect the key sectors of their economies. However, if the Russian Federation makes up its mind to keep the numerous exemptions and exclusions from the principles of the freedom of movement of goods, services and factors of

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<sup>8</sup> Aleksey Sushkevich, Igor Artemyev, Foundation of the Antimonopoly Policy of the State // Economic Policy. 2007. No.4. <http://www.ep.ane.ru/archiv/2007/4>

production, further efforts to create a full-fledged economic union of the CES countries will have no effect.

Further progress of the Eurasian integration entirely depends on the political decisions of the Russian administration, which perceives the integration project as not only an economic, but also a political and international initiative. In the context of the events in Crimea and Donbas, the Russian Federation may shift its focus from the Eurasian integration to more pressing international problems. The main challenge to the Eurasian project that the Russian leadership will have to address in the near term is to use the upcoming Union as a propaganda instrument for Russian society and the international community. The creation of the EAU will be advertised as a serious extension of Russia's influence in the FSU.

In order to create an effective integration project, Belarus and Kazakhstan must be forced to partially cede their economic sovereignty, which is totally unacceptable to the leaders of these two countries. In this situation, the authorities of the Russian Federation will settle for the creation of the Eurasian Economic Union with incomplete freedom of movement of goods, services, capital and workforce. As soon as the EAU has been established, the administration of the Russian Federation could either freeze the Eurasian integration process at the current stage (lack of efforts to deepen integration amid redoubled efforts to broaden it by accepting new EAU members) or increase economic and political pressure on the authorities of Belarus and Kazakhstan after 2015.