

**Case No. A-821-816**

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**BEFORE THE IMPORT ADMINISTRATION  
U.S. DEPARTMENT OF COMMERCE**

**INQUIRY INTO THE STATUS OF THE RUSSIAN FEDERATION AS A  
NON-MARKET ECONOMY COUNTRY UNDER THE ANTIDUMPING  
AND COUNTERVAILING DUTY LAWS**

Response to Comments Filed on Behalf of:

Gallatin Steel Company; IPSCO Steel Inc.;  
Nucor Corp.; Steel Dynamics, Inc.; and  
Weirton Steel Corporation

By:

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## **SUMMARY OF RESPONSE**

The Department of Commerce should decline to revoke the Russian Federation's ("Russia") status as a non-market economy at this time because many obstacles remain which preclude revocation. The comment filed on behalf of several Russian steel producers cites many of the Russian government's numerous changes during the past ten years which have moved Russia closer to non-market economy status, but the submission ignores the reality of the Russian economy today. Existing rampant corruption, limited rule of law, excessive state intervention in and ownership of several key industries, currency controls, as well as restrictions and practical impediments to foreign investments require substantial additional reform before revocation Russia's non-market economy status would be justified.

## **RESPONSE**

In response to the Department's *Notice of Initiation of Inquiry Into the Status of the Russian Federation as a Non-Market Economy Under the Antidumping and Countervailing Duty Laws*, 66 Fed. Reg. 54197 (Oct. 26, 2001), several Russian steel producers, including JSC Severstal, Novolipetsk Iron & Steel Corporation, and JSC Magnitogorsk Iron and Steel Works ("respondents"), filed a comment in support of revocation of Russia's non-market economy status pursuant to 19 U.S.C. § 1677(18)(C). In their comment, respondents focus entirely on the recent positive reforms and fail to adequately address several key problems still facing the Russian economy today. Unfortunately, the Russian economy faces rampant corruption and a weak legal system unable to enforce existing laws. The Department must consider the totality of the circumstances in its determination as to whether to

revoke Russia's non-market economy status. This response highlights some of the oversights of the respondents' submission.

First, the Russian ruble has not achieved a satisfactory level of convertibility due to significant restrictions aimed at impeding capital flight. Some examples of these restrictions, including the mandatory requirements to repatriate funds involved in export/import transactions, were outlined on page 8 of our December 10, 2001 comments.<sup>1</sup> Respondents do acknowledge on page 9 of their comment that "the Russian Government limits the access of its residents to foreign currency on the domestic foreign exchange market if the currency is to be invested overseas, restricts direct investments by Russian residents abroad, and imposes limits on Russian residents obtaining real estate abroad," yet they assert that similar situations existed in Poland and the Czech Republic when those countries were granted market economy status.

The current restrictions in place in Russia create serious impediments to free trade which should weigh heavily in the Department's consideration of Russia's status as a market economy. The restrictions in place in Russia are more onerous than those in place in the other countries for which the Department has revoked non-market economy status, including Poland and the Czech Republic. For example, the Czech Republic, which had its non-market economy status revoked effective January 1, 1998, eliminated many of the restrictions on currency conversion in its 1995 amendments to the Foreign

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<sup>1</sup> See also United States Department of State, FY 2001 Country Commercial Guide: Russia, Chap. 8 at 56, attached as Exhibit 6 to our December 10, 2001 comment.

Exchange Act.<sup>2</sup> Poland, like Russia today, did have restrictions on the export of foreign currency and the ability of citizens to hold assets abroad. The currency restrictions in Poland, however, were not as onerous as those in Russia because there were no restrictions on import payments and export proceeds denominated in hard currency, nor did Poland have restrictions on repatriation of capital. The existence of these restrictions in Russia, as well as their deterrent to investment, do not support a conclusion that the Russian ruble is freely convertible.

Next, the Russian respondents' description of workers rights, including basic labor standards and the right to collective bargaining, wholly ignores the reality of labor conditions in Russia today. Despite the existence of a variety of laws aimed at protecting workers rights, the unfortunate reality is that enforcement of laws and regulations is weak, the dominant labor union does little to protect the rights of its members, and employers often fail to pay their workers the wages to which they are entitled. In such an environment, it is difficult to see how free bargaining of wage rates in Russia could be deemed to be at a level to merit revocation of Russia's status as a non-market economy.

In evaluating the extent to which joint ventures and other investments by non-Russian firms are permitted in Russia, there are still several major areas in which foreign investment is precluded. Respondents do point out that the natural monopolies and other specific and highly sensitive sectors, such as the utilities, the aerospace industry, and the insurance industries all have restrictions. But some

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<sup>2</sup> See Memorandum To Robert LaRussa From John Brinkman and Norbert Gannon: Antidumping Investigation of Certain Small Diameter Carbon and Alloy Seamless Standard Line and Pressure Pipe from the Czech Republic, Non-Market Economy ("NME") Status, dated Nov. 29, 1999, at 5.

of these industries comprise a major portion of Russian economy, which is also important when considering to what extent Russia has privatized its ownership and control of the means of production.

The Russian government still exercises control over the major utilities such as the natural gas and coal industries. These utilities are a major source of wealth in Russia and are still controlled by the Russian government. In fact, Gazprom, the Russian monopoly that controls Russia's natural gas reserves, comprises approximately 8 percent of Russia's GNP.<sup>3</sup> Thus, the number of privately owned companies cited by respondents is irrelevant in terms of the size and importance of those companies which are still under government control. The government's monopolistic control of these industries has received substantial criticism because prices are often set below market value and resources are not used efficiently. The existing restrictions on foreign investment thus do not encourage the needed reform in these critical industries.

In addition to the industries with actual restrictions on foreign investment, it is also extremely important to note that it is difficult, if not often impossible, to enforce contractual rights in Russia due to the weak legal system and rampant corruption. The lack of a strong rule of law makes it difficult to enforce contractual rights, greatly limiting the desirability of foreigners to invest in Russia. Additionally, the respondents' submission does not mention the rampant corruption that has permeated all levels of the government, making it difficult and costly for both Russian nationals and foreigners to do business in

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<sup>3</sup> Stewart Fleming, "But the Bad Old Ways Are Still Typified By Giant Gazprom," The Evening Standard (Oct. 30, 2001), attached as Exhibit 4 to our Dec. 10, 2001 comment.

Russia. These significant problems seriously undermine the progress that Russia has made in reforming its economy.

While respondents' correctly assert that the theoretical standard of complete *laissez faire* is not the appropriate standard against which the Department should judge the status of Russia's economy, the fact is that Russia fails to meet the Department's current standards for market economy status. Russia has undoubtedly made significant progress towards its goal of achieving market economy status. But despite this progress, the Russian economy still has several sizable obstacles to overcome and government intervention must be curtailed even further before the Department should revoke Russia's non-market economy status.

### CONCLUSION

For all the reasons listed above, we respectfully request that the Department reject the arguments of the Russian producers and decline to revoke the Russian Federation's status as a non-market economy.

Respectfully submitted,

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