



**Results of the activity of the Working Group on
Investigating Issues on Pricing in the Oil and Oil Product
Markets and Methods of their Functioning**

13th IGE, Geneva, 10th July, 2013

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The views expressed are those of the authors and do not necessarily reflect the views of UNCTAD

Main Goals and Tasks of the Working Group

- Discussion of existing approaches to monitoring and analysis of the wholesale and retail markets of oil and oil products.
- Elaboration of methodology for determining product and geographical boundaries of the wholesale and retail markets of oil and oil products.
- Study of the issues of pricing of oil and oil products in domestic markets, including the impact of world prices on the pricing in domestic markets.
- Exchange of experience and approaches to the enforcement of the antimonopoly legislation in the market of oil and oil products.
- Discussion of non-confidential information exchange proceedings among members of the Working Group.
- Preparation by the competition authorities of proposals for national governments to promote competition in the markets of oil and oil products.

The Working Group, June 2012, Vienna, Austria



The Session was dedicated to the elaboration of methodology for the market analysis, including determining the product and geographical boundaries of the wholesale and retail markets of oil and oil products

The representatives of the Competition Authorities of 9 countries, such as Austria, Bulgaria, the Czech Republic, Germany, Hungary, Latvia, Portugal, Romania, Russia, Slovakia participated in the Session.



When discussing the issues of methodology of determining product and geographical boundaries of the wholesale and retail markets of oil and oil products, the following aspects play an important role:

- The influence of the market structure on the state of competition in wholesale and retail markets, including
 - problems of oligopolistic markets and collective dominance of the main market participants;
 - strengthening of the dominant position through chains of vertical integration.
- Specifics of determining dominant position on wholesale and retail markets.
- Significance of the interaction between global and domestic markets, as well as market entry barriers.

The Working Group, Sept. 2012, Kazan, the Russian Federation



The Session was dedicated to the practice of the monitoring and analysis of the wholesale and retail markets of oil and oil products.

The representatives of the Competition Authorities of 17 countries, such as Austria, Azerbaijan, Belarus, Bulgaria, the Czech Republic, Finland, Hungary, Latvia, Kazakhstan, Mongolia, Portugal, Russia, Serbia, the USA, Turkey, and Ukraine, participated in the Session.



The Working Group, Sept. 2012, Kazan, the Russian Federation

When discussing the monitoring of wholesale and retail prices for oil and oil products, the participants of the Working Group noted:

- Significance of monitoring for antimonopoly policy
- Importance and efficiency of the automatic systems being used for collecting and processing information, in particular, in:
 - Austria
 - Russia
 - USA
 - Ukraine

The Working Group, Oct. 2012, London, United Kingdom



The Session was dedicated to the issues of pricing in the world markets and influence of world prices on the wholesale prices in the domestic markets of oil and oil products.

The Session was attended by the representatives of the Antimonopoly Authorities of Austria, Germany, Great Britain, Portugal, and Russia.



The Working Group, Oct. 2012, London, United Kingdom

When discussing pricing in world and domestic markets of crude oil and petroleum products the working group paid particular attention to:

- Mutual influence of the physical trading in the oil and oil product markets and the trading in the derivatives markets.
- Impact of world prices on prices in national markets of both large and small countries, both importers and exporters of oil and oil products.
- Transparency of pricing in the markets of oil and oil products.
- Methodology and procedures of quotation of prices for oil and oil products on the global and national levels.

The Working Group's Results and application

G8 and G20 expressed concerns regarding increase of oil prices and their volatility.



- Recognizing the role of Price Reporting Agencies (PRA) for the proper functioning of oil markets, G8 and G20 ask IOSCO to prepare report on recommendations to improve PRA's functioning (IOSCO, FR06/12, 5/10/12).



- IOSCO's report focus on the price reporting activities of PRAs in oil markets, with particular reference to assessments that are linked to derivatives contracts (IOSCO, FR06/12, 5/10/12).



- Competition Authorities have gained experience related to oil markets. Within the frameworks of the Working Group the physical oil markets have been studied in detail in accordance with the powers of Competition Authorities.



- The Oil Information Exchange Platform.

Objectives of the Oil Information Exchange Platform

- Exchange of **basic information**.
- It should provide primarily a first clue of what's going on in the different jurisdictions.
- If more information is requested, the respective competition agencies have to get into contact with each other.
- The platform provides a tool to facilitate these contacts.

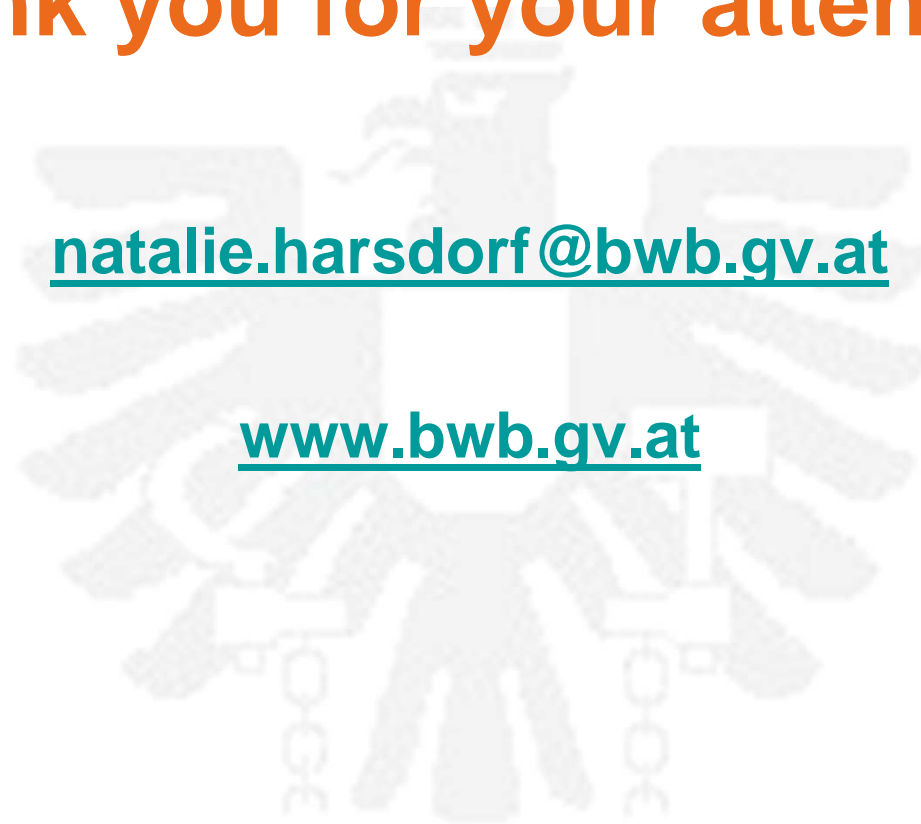
Basic (administrative) issues

- No obligation to provide confidential information.
- Minimizing administrative burden.
- **Costs** for participating authorities are **nearly zero** – at least no monetary costs.
- Only some administrative costs for implementing and updating the database.
- But usually the relevant information has anyway to be provided by the national authorities for other purposes.

Thank you for your attention!

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The Federal Antimonopoly Service

Antimonopoly Regulation and Supervision of Oil Products Markets

Anatoly Golomolzin
Deputy Head
10 July 2013
Geneva

Oil Working Group, March 2013

In the course of the 5th Session, the Co-Chairs of the Oil WG signed the Kiev Declaration, in which the following decisions and conclusions were made:

Information Exchange Platform;

Enforcement in the field of competition is a useful and powerful tool in the oil product markets;

In analyzing the oil- and especially oil product markets it is worth giving special emphasis to the complex interaction of regional, national and international factors influencing the competition intensity;

Key problem – transparency;

Important: taking into account the practice of enforcement of antimonopoly legislation, the legal framework is being formed aimed at development of exchange trading in physical oil products and derivatives, registration of OTC transactions at the exchange, and the formation of indices of exchange and OTC prices, as well as indices of comparable foreign markets.

Results of the Oil Working Group

Within the meeting of the OECD Competition Committee (February 2013, Paris), the Austrian Federal Competition Authority and the FAS Russia made a report on the results of the Oil Working Group.

According to the results of the discussion, the participants of the meeting stressed out the importance and the necessity to continue work.



The FAS Russia was invited to include the project on pricing in the markets of oil and oil products to the agenda of the joint activities of the International Competition Network (ICN) and the OECD.

Cases on Violations by Oil Companies of the Antimonopoly Legislation

Federal Wholesale Market of Oil Products. In 2008-2011, the FAS Russia examined three “waves” of cases against the largest vertically integrated oil companies, i.e. Rosneft, Gazprom Neft, LUKOIL, TNK-BP Holding, and Bashneft.

Violation – abuse of collective dominant position:

- excessive prices to oil products;
- discriminatory conditions for the buyers (members and non-members of one group of persons with the VIOC’s) in the Russian wholesale markets.
- asymmetry of domestic and world prices – upward trends are reflected without any delay, and with a high degree of correlation; downward trends are reflected with delay and with a lower degree of correlation.

Within these cases, the operations of the electronic trading platform were also under scrutiny.

Important: fines imposed – more than **500 million Euros**.

More important: the FAS Russia instructed to start exchange trading in physical commodities (oil products).

Inspection of Mercantile Exchanges' Operations

The FAS Russia jointly with the Federal Service for Financial Markets of Russia made inspections of mercantile exchanges.

The inspections demonstrated that the requirements to the market price formation were not met. The following was found:

- lack of anonymity of trades;
- transactions made between members of one and the same group of persons;
- bidding by sellers of large lots of products;
- proceedings to determine the winning bids established by the mercantile exchanges in their trading rules were violated.

Results

As a result, the legal basis aimed at development of exchange trade started developing. Adopted:

Amendments to the Federal Law of 26.07.2006 No.135-FZ “On Protection of Competition” (“Third Antimonopoly Package”) (entered into force since 6.01.2012) establish the requirements to price market formation at exchange trades.

Fulfillment of these requirements will form an objective market indicator of oil products.

Federal Law of 21.11.2011 No.325-FZ “On Organized Trading” establishes that the FSFR Russia will regulate, control and license the operations of the electronic trading platforms as trades organizer since 2014.

The IOSCO Recommendations

1. The possibility of adoption of such rules is also discussed by IOSCO.

IOSCO suggested 11 recommendations.

2. IOSCO was going to review the implementation of recommendations over the next 18 months.

3. In the event that IOSCO's review concludes that implementation has been ineffective, or that further steps are required to achieve the principles' overall objectives, IOSCO will consider other options, such as recommending direct governmental regulation of PRAs by a respective authority with expertise in energy markets and/or the creation of non-government statutory self-regulatory organizations (both alternatives may require careful evaluation of the risks and benefits of such regulation by authorities responsible for energy matters and legislative action)

European Commission Activity

- *On the 4th May 2013 the European Commission carried out unannounced inspections at the premises of several companies operating in the sectors of crude oil, petroleum products and biofuels. Commission staff were accompanied by their colleagues from the relevant national competition authorities.*
- *The Commission doubts that the company may enter into collusion with the aim of providing misinformation to International news and analysis agencies, and possibly removed other participants from the market prices evaluation process in order to distort the published prices.*
- *Such behavior, if it is proven, is contrary to European competition law prohibiting cartels and abuse of dominant position (Articles 101 and 102 of the Treaty on the Functioning of the European Union).*
- *The Commission notes that the price rates are evaluated and published by the International informational and analytical agencies, which later serves as reference points for trading in the physical markets and derivatives markets in a number of commercial products in Europe and around the world.*
- *Even a small price distortions can have a huge impact on the price of oil, oil products and biofuels, and be potentially harmful to the final consumer.*

Control over Price Manipulation

USA

- *Since 2007 the Energy Independence and Security Act came into force, which had been prescribed a substantial reform of the energy sector.*
- *A special provision of the law is aimed at banning the manipulation of prices or misleading conduct in wholesale petroleum markets. This law establishes the powers of the Federal Trade Commission of the United States (FTC) to control prevention of price manipulation*
- *To the development of this law the FTC issued a corresponding manual on the issue of market manipulation, which came into force in November 2009. The Guide applies to conduct transactions at the wholesale market for petroleum crude oil distillates (including kerosene, diesel oil) and gasoline. Possible sanctions for manipulation can amount up to \$ 1 million a day.*

Russia

Similar provisions, establishing a prohibition on price manipulating, are fixed in the framework of the laws "On Electric Power Industry" and "On Protection of Competition". To develop these laws a number of acts of FAS Russia has been prepared. There is a successful experience with these norms in cases of violations of competition laws/



The FAS Russia considers it necessary to take into account both the Russian experience and the experience of the United States on preventing price manipulation in oil and oil product markets in the draft law "On the market pricing in the markets of oil and petroleum products", developed in accordance with the Road map on Competition"

Benchmarking at the Physical Commodity Markets (Oil Products)

| Price Institutes | Legal Regulation | Methods Utilized | |
|--|---|---|--|
| | | World Market | Russian Market |
| Platts (Mass Media, PRA) | Corporate rules (possibly the IOSCO recommendations) | Combined method based on results of transactions at one's own platform (eWindows) and "manual" method (questioning, registration of transactions and bids). | Questioning, processing of results and third resources, assessment of prices based on one's own methodology. |
| Argus (Mass Media, PRA) | Corporate rules (possibly the IOSCO recommendations) | Questioning, processing of results and third resources, assessment of prices based on one's own methodology. | Questioning, processing of results and third resources, assessment of prices based on one's own methodology. |
| "KORTES" (information agency, Russia) | Corporate rules (possibly the IOSCO recommendations) | | Questioning, processing of results and third resources, assessment of prices based on one's own methodology. |
| SPIMEX (exchange, Russia) | Laws*, acts of the Government of the Russian Federation and authorities | The possibility of quotations of exported oil prices (VSTO – a marker sort of Russian crude oil) | Exchange quotations based on trades in physical commodity; indices of prices based on registration of more than a half of transactions in the market of the Russian Federation |

*Law on Protection of Competition, Law on Organized Trading, Code of Administrative Violations and Oil Products in the Russian Federation

The IOSCO's Principles (October, 2012)

The IOSCO's principles require :

1. The formal documentation and disclosure of all criteria and procedures that are used to develop an assessment, including guidelines in accordance with which decisions and the procedures of methodology review are adopted.



In Russia:

Federal Law on Protection of Competition:

- ★ The “Third Antimonopoly Package” provides for a number of regulations that govern the selling of oil products at the exchange:
 - The Proceedings of submission to the exchange of a list of affiliate persons of dominant economic entities accredited and/or participating in the trades (Order of the FAS Russia dated 26.07. 2012 No. 409).
 - The Criteria of regularity and evenness of goods’ distribution at the exchange (Regulation of the Government of the Russian Federation dated 11.10.2012 No.1035).
 - Requirements to exchange trading between dominant companies; minimum value of oil products traded on the exchange (Joint Order of the Ministry of Energy of the Russian Federation and the FAS Russia dated 30.04.2013 No.225)

The IOSCO's Principles (October, 2012)

The IOSCO's principles require :

2. When making assessments, to give priority to concluded transactions and to implement measures intended to ensure that the transaction data submitted and considered in an assessment are bona fide, including measures to minimize selective reporting.



In Russia:

Federal Law on Organized Trading:

The trades organizer shall calculate prices, indexes and other indicators as a result of organized trades, and/or other information.

The exchange performing organized trades shall maintain a register of OTC transactions.

Regulation for registration by mercantile exchanges of OTC transactions and the provision of information to the Registry (Resolution of the Government of the Russian Federation of 10.02.2011 No. 65).

According to this Resolution, **crude oil, oil products, and coal** were entered into the list of exchange commodities, in relation to which OTC transactions, including long-term supply contracts, are subject to mandatory registration by mercantile exchanges.

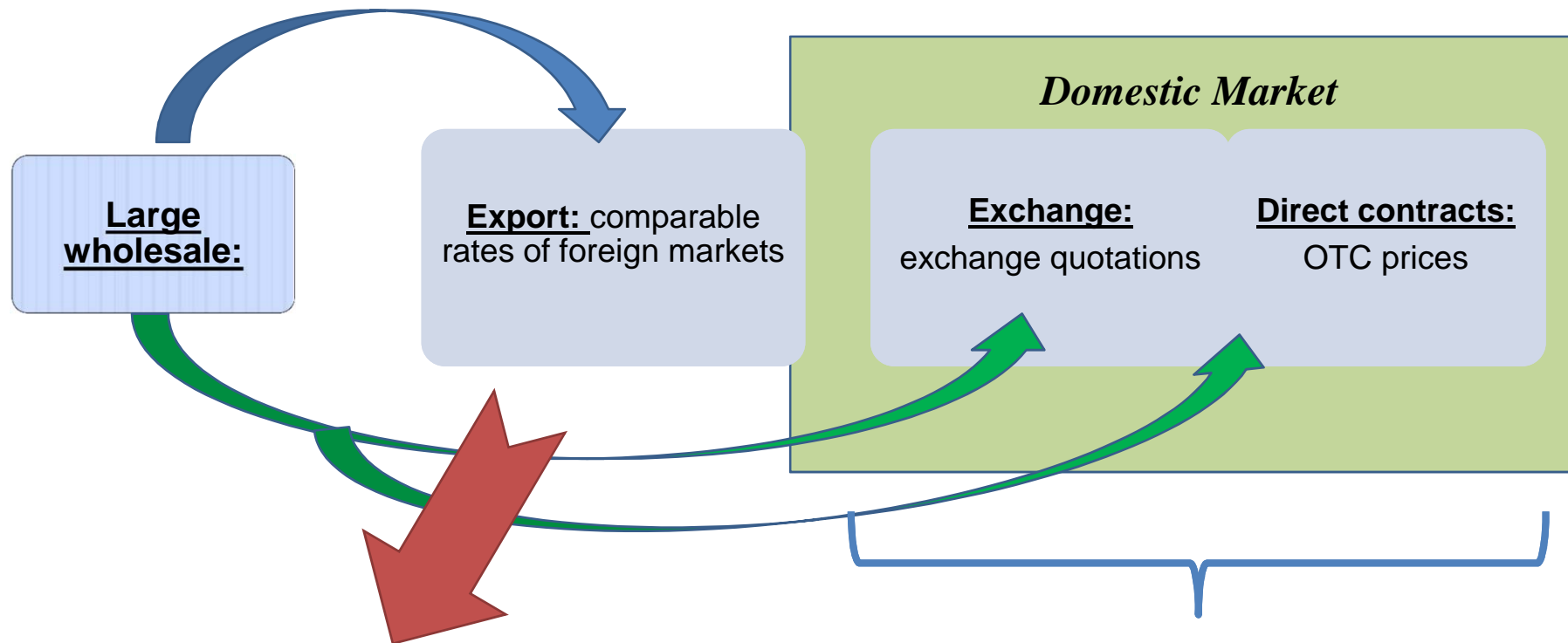
Comparative Evaluation of Representativeness of Information Used for Formation of Price Indices in the Physical Market (Oil Products)

| Oil Product | Platts | | | SPIMEX | | |
|------------------------------|---------------------------|-----------------------------|--|---|--------------------------|--|
| | Volume, thousands of tons | Quantity of Transactions ** | Average Transaction, thousands of tons | Volume, thousands of tons | Quantity of Transactions | Average Transaction, thousands of tons |
| Motor Fuels | 2106 | 1053 | 2 | 2484 | 7257 | 0,342 |
| Jet Fuel | 594 | 297 | 2 | 1656 | 1701 | 0,974 |
| Diesel | 4880 | 2240 | 2 | 4230 | 6727 | 0,629 |
| Total Volume of Oil Products | 7580 | | | 49670 8370 - pit and 41300 – ex-pit transactions | | |

* average amount of the barge delivery of 2 thousand ton

** quantity of transactions includes reporting of the transaction price or calculation from the levels of demand and supply

*** quantity of transactions actually concluded



There is a number of issues on assessment methodologies of PRAs in relation to price indices of comparable foreign markets

At present, the Russian Federation has created the legal framework aimed at objective market price indices for crude oil and oil products (exchange-traded and OTC price indices)

Prospects of cooperation



IWG



G20 + IOSCO



UNCTAD

THANK YOU!



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