AGREEMENT

in the form of an Exchange of Letters between the European Union and the Government of the Russian Federation relating to the preservation of commitments on trade in services contained in the current EU-Russia Partnership and Cooperation Agreement

1. *Letter from the Government of the Russian Federation*

Geneva, 16 December 2011

Dear Sirs,

Following negotiations between the Government of the Russian Federation and the European Union with regard to trade in services, the Parties have reached the following understanding:

I. Notwithstanding the provisions of Article 51 of the Agreement on partnership and cooperation establishing a partnership between the Russian Federation, of one part, and the European Communities and their Member States, of the other part, of 24 June 1994 (hereinafter referred to as the 'PCA'), after the accession of the Russian Federation to the World Trade Organization (WTO), Article 35 and paragraphs 1 and 2 of Article 39, in conjunction with Article 30(h), of the PCA will continue to apply between the Parties.

II. Notwithstanding the provisions of Article 51 of the PCA, after the accession of the Russian Federation to the WTO, the Parties shall extend the benefits of their GATS commitments on intra-corporate transferees being transferred to commercial presences (as defined in this paragraph) other than representative offices in their respective territories to any person fulfilling the conditions set out in points (a) and (b) of paragraph 2 of Article 32 of the PCA. For the purpose of this paragraph, the word 'organizations' used in Article 32 of the PCA shall be deemed to cover the commercial presence as defined in the respective GATS Schedules of the Parties.

III.1. Intra-corporate transferees of Russian juridical persons being transferred to their representative offices in the European Union shall be accorded treatment no less favourable than that accorded by the European Union to like intra-corporate transferees of any juridical person of a third country.

III.2. Treatment granted under agreements other than the PCA concluded by the European Union with a third State which are notified under Article V of the GATS or which benefit from the coverage of the European Union GATS List of MFN exemptions shall be excluded from the application of paragraph III.1. Treatment deriving from the harmonization of regulations based on agreements concluded by the European Union providing for mutual recognition in accordance with Article VII of the GATS shall also be excluded from the application of paragraph III.1.

III.3. Treatment accorded by the Russian Federation to intra-corporate transferees of juridical persons of the European Union being transferred to their representative offices in the Russian Federation shall be no less favourable than that accorded to like intra-corporate transferees by the European Union in accordance with this paragraph. The Russian Federation might however limit the number of such intra-corporate transferees to a maximum of five per representative office (two for banking).

IV.1. For the purpose of paragraph IV:

(a) 'Final consumer' of a Party is a juridical person, established in accordance with the legislation of this Party on its territory.

(b) 'Natural person' is a citizen of a Party (in the case of the European Union, a citizen of one of its Member States) residing on the territory of this Party, who temporarily enters the other Party as an employee of the contractual service supplier with the purpose of provision of services as provided by the contract to provide services.

(c) 'Contractual service supplier' is a juridical person of one Party established in accordance with the legislation of this Party on its territory which has no commercial presence in the form of subsidiary, dependent company or branch constituted in the territory of the other Party and which has concluded a contract to provide services with a final consumer in the latter Party requiring the presence on a temporary basis of natural persons in that Party in order to fulfil the contract to provide services.

IV.2. Treatment accorded by the European Union to contractual service suppliers of the Russian Federation shall be no less favourable than that accorded to contractual service suppliers of any third country.

IV.3. Treatment granted under other agreements concluded by the European Union with a third State which have been notified under Article V of the GATS or which benefit from the coverage of the European Union GATS List of MFN exemptions shall be excluded from this provision. Treatment deriving from the harmonization of regulations based on agreements concluded by the European Union providing for mutual recognition in accordance with Article VII of the GATS, shall also be excluded from the application of this paragraph.

IV.4. The Russian Federation shall allow the provision of services in its territory by contractual service suppliers of the European Union through presence of natural persons subject to the following conditions:

(a) The contract to provide services:

(i) has been concluded directly between the contractual service supplier and the final consumer;

(ii) requires the temporary presence within the territory of the Russian Federation of natural persons of the European Union to provide the service; and

(iii) complies with the laws, regulations and requirements of the Russian Federation.

(b) The temporary entry and stay of natural persons within the Russian Federation pursuant to the fulfilment of this contract shall be for a period of not more than six successive months in any twelve-month period or for the duration of the contract, whichever period is shorter.

(c) The natural persons entering the Russian Federation must possess:

(i) a university degree or a technical qualification demonstrating knowledge of an equivalent level; and

(ii) professional qualifications where this is required to exercise an activity in the sector concerned pursuant to the laws, regulations or requirements of the Russian Federation.

(d) The natural person shall not receive remuneration for the provision of services other than the remuneration paid by the contractual service supplier during its stay in the Russian Federation.

(e) The natural persons entering the Russian Federation must have been employed by the contractual service supplier for at least the year preceding the date of submission of an application for entry into the Russian Federation. In addition, the natural person must possess, at the date of submission of an application for entry into the Russian Federation, at least 3 years professional experience in the sector of activity which is the subject of the contract.

(f) The contract to provide services has to be obtained in one of the following sectors of activity which are included and defined in Russian Federation's GATS schedule of commitments:

1. Legal services;

2. Accounting and bookkeeping services;

3. Taxation services;

4. Architectural services;

5. Engineering services;

6. Integrated Engineering services;

7. Urban planning and landscape architecture services;

8. Computer and related services;

9. Advertising services;

10. Market research services;

11. Management consulting services;

12. Services related to management consulting;

13. Technical testing and analysis services;

14. Advisory and consulting services incidental to mining;

15. Related scientific and technical consulting services;

16. Translation and Interpretation services;

17. Maintenance and repair of equipment, including transportation equipment;

18. Environmental services.

(g) The subject of the contract shall not be 'placement and supply services of personnel' as defined in CPC 872.

Access accorded under the provisions of paragraph IV.4 relates only to the service activity which is the subject of the contract; it does not confer entitlement to exercise the professional title of the Russian Federation.

The Russian Federation might establish an annual quota of work permits reserved to European Union's natural persons gaining access to the Russian Federation's services market under the provisions of paragraph IV.4. In the first year in which the provisions of paragraph IV.4 enter into force, this annual quota shall be no lower than 16 000 persons. In the following years, the annual quota shall be no lower than the quota of the preceding year.

IV.5. Upon entry into effect of the results of the current multilateral round of trade negotiations in the field of services, the Parties will review the provisions of paragraph IV.4 with a view to its extension to self-employed persons being contractual service suppliers.

V.1. This understanding shall not apply to measures affecting natural persons seeking access to the employment market of a Party, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.

V.2. This understanding shall not prevent a Party from applying measures to regulate the entry of natural persons into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Party under paragraphs II, III and IV.

In case the European Union confirms its agreement with the terms set forth in this letter, I propose that this letter and the reply letter of the European Union shall constitute the Agreement between the Government of the Russian Federation and the European Union relating to the preservation of commitments on trade in services contained in the PCA. This Agreement shall enter into force on the date on which the Parties exchange written notifications certifying that they have completed their respective internal procedures. This Agreement shall be applied provisionally from the date of the Russian Federation's accession to the WTO.

Please accept, Sirs, the assurance of my highest consideration.

For the Government of the Russian Federation

2. *Letter from the European Union*

Geneva, 16 December 2011

Dear Minister,

We have the honour to acknowledge receipt of your letter of today's date which reads as follows:

'Following negotiations between the Government of the Russian Federation and the European Union with regard to trade in services, the Parties have reached the following understanding:

I. Notwithstanding the provisions of Article 51 of the Agreement on partnership and cooperation establishing a partnership between the Russian Federation, of one part, and the European Communities and their Member States, of the other part, of 24 June 1994 (hereinafter referred to as the "PCA"), after the accession of the Russian Federation to the World Trade Organization (WTO), Article 35 and paragraphs 1 and 2 of Article 39, in conjunction with Article 30(h), of the PCA will continue to apply between the Parties.

II. Notwithstanding the provisions of Article 51 of the PCA, after the accession of the Russian Federation to the WTO, the Parties shall extend the benefits of their GATS commitments on intra-corporate transferees being transferred to commercial presences (as defined in this paragraph) other than representative offices in their respective territories to any person fulfilling the conditions set out in points (a) and (b) of paragraph 2 of Article 32 of the PCA. For the purpose of this paragraph, the word "organizations" used in Article 32 of the PCA shall be deemed to cover the commercial presence as defined in the respective GATS Schedules of the Parties.

III.1. Intra-corporate transferees of Russian juridical persons being transferred to their representative offices in the European Union shall be accorded treatment no less favourable than that accorded by the European Union to like intra-corporate transferees of any juridical person of a third country.

III.2. Treatment granted under agreements other than the PCA concluded by the European Union with a third State which are notified under Article V of the GATS or which benefit from the coverage of the European Union GATS List of MFN exemptions shall be excluded from the application of paragraph III.1. Treatment deriving from the harmonization of regulations based on agreements concluded by the European Union providing for mutual recognition in accordance with Article VII of the GATS shall also be excluded from the application of paragraph III.1.

III.3. Treatment accorded by the Russian Federation to intra-corporate transferees of juridical persons of the European Union being transferred to their representative offices in the Russian Federation shall be no less favourable than that accorded to like intra-corporate transferees by the European Union in accordance with this paragraph. The Russian Federation might however limit the number of such intra-corporate transferees to a maximum of five per representative office (two for banking).

IV.1. For the purpose of paragraph IV:

(a) "Final consumer" of a Party is a juridical person, established in accordance with the legislation of this Party on its territory.

(b) "Natural person" is a citizen of a Party (in the case of the European Union, a citizen of one of its Member States) residing on the territory of this Party, who temporarily enters the other Party as an employee of the contractual service supplier with the purpose of provision of services as provided by the contract to provide services.

(c) "Contractual service supplier" is a juridical person of one Party established in accordance with the legislation of this Party on its territory which has no commercial presence in the form of subsidiary, dependent company or branch constituted in the territory of the other Party and which has concluded a contract to provide services with a final consumer in the latter Party requiring the presence on a temporary basis of natural persons in that Party in order to fulfil the contract to provide services.

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IV.3. Treatment granted under other agreements concluded by the European Union with a third State which have been notified under Article V of the GATS or which benefit from the coverage of the European Union GATS List of MFN exemptions shall be excluded from this provision. Treatment deriving from the harmonization of regulations based on agreements concluded by the European Union providing for mutual recognition in accordance with Article VII of the GATS, shall also be excluded from the application of this paragraph.

IV.4. The Russian Federation shall allow the provision of services in its territory by contractual service suppliers of the European Union through presence of natural persons subject to the following conditions:

(a) The contract to provide services:

(i) has been concluded directly between the contractual service supplier and the final consumer;

(ii) requires the temporary presence within the territory of the Russian Federation of natural persons of the European Union to provide the service; and

(iii) complies with the laws, regulations and requirements of the Russian Federation.

(b) The temporary entry and stay of natural persons within the Russian Federation pursuant to the fulfilment of this contract shall be for a period of not more than six successive months in any twelve-month period or for the duration of the contract, whichever period is shorter.

(c) The natural persons entering the Russian Federation must possess:

(i) a university degree or a technical qualification demonstrating knowledge of an equivalent level; and

(ii) professional qualifications where this is required to exercise an activity in the sector concerned pursuant to the laws, regulations or requirements of the Russian Federation.

(d) The natural person shall not receive remuneration for the provision of services other than the remuneration paid by the contractual service supplier during its stay in the Russian Federation.

(e) The natural persons entering the Russian Federation must have been employed by the contractual service supplier for at least the year preceding the date of submission of an application for entry into the Russian Federation. In addition, the natural person must possess, at the date of submission of an application for entry into the Russian Federation, at least 3 years professional experience in the sector of activity which is the subject of the contract.

(f) The contract to provide services has to be obtained in one of the following sectors of activity which are included and defined in Russian Federation's GATS schedule of commitments:

1. Legal services;
2. Accounting and bookkeeping services;
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8. Computer and related services;
9. Advertising services;
10. Market research services;
11. Management consulting services;
12. Services related to management consulting;
13. Technical testing and analysis services;
14. Advisory and consulting services incidental to mining;
15. Related scientific and technical consulting services;
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V.1. This understanding shall not apply to measures affecting natural persons seeking access to the employment market of a Party, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.

V.2. This understanding shall not prevent a Party from applying measures to regulate the entry of natural persons into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Party under paragraphs II, III and IV.

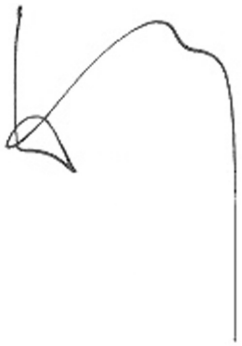
In case the European Union confirms its agreement with the terms set forth in this letter, I propose that this letter and the reply letter of the European Union shall constitute the Agreement between the Government of the Russian Federation and the European Union relating to the preservation of commitments on trade in services contained in the PCA. This Agreement shall enter into force on the date on which the Parties exchange written notifications certifying that they have completed their respective internal procedures. This Agreement shall be applied provisionally from the date of the Russian Federation's accession to the WTO.'.

The European Union has the honour to confirm its agreement with the contents of this letter.

Please accept, Madame, the assurance of our highest consideration.

For the European Union





Waldemar PAWLAK

Deputy Prime Minister,
Minister for Economy of the Republic of Poland

Karel DE GUCHT

Commissioner for Trade
of the European Commission