

BRIEFING NOTE

Prices of oil and oil products are regularly reported by the international price reporting agencies (including Platts and Argus) (hereinafter referred as the PRAs). Such PRAs perform market analyses and give comments on the situation at such markets. This work is conducted at the global level; the PRAs' offices are located on five continents in major business centers. The prices reported by the PRAs are used as benchmark prices in diverse physical commodity markets (markets of oil and oil products and associated markets), including long-term contracts, and have a significant impact on oil derivatives markets, on financial markets, and on world economy as a whole.

Amid the crisis of 2008, G8 and G20 had a whole set of questions to the PRAs concerning objectivity of the prices reported by them. In response to the concerns the International Organization of Securities Commissions (IOSCO) completed the analysis. The conclusions of IOSCO consist, in particular, that the PRAs use sample of data, which is not sufficiently representative, that they widely apply a polling method, instead of results of the actual transactions.

There are also issues related to transparency and validity of the PRAs' methodology focused on their own assessments and judgments in cases when they are short of data. All this in aggregate creates a possibility for the price and market manipulation.

The International Working Group on Investigating Issues on Pricing at the Oil and Oil Product Markets and Methods of their Functioning (hereinafter referred as the Oil Working Group) was created at the initiative of the Federal Antimonopoly Service (the FAS Russia) and the Austrian Federal Competition Authority in October 2011. Since the Working Group's formation, representatives of around 20 countries on three continents, including Russia, Austria, Portugal, Germany, Kazakhstan, Ukraine, USA, UK and other countries, took part in its sessions.

The second session of the Working Group (June 2012, Vienna) was devoted to the methodologies of determining the oil and oil products markets, and to consideration of characteristics of the wholesale and retail trade and the oil and oil products markets stipulated by the oligopolistic market structure and by chains of vertically integrated links among participants.

At the session, the participants noted that all the countries use a similar approach to market analysis. There is practice of violation of antimonopoly legislation. In particular, one of the most important ones are the cases of Italy and Russia.

Italian experience. From 2004 to 2006, the Italian Competition Authority considered a case against the largest oil companies: Eni, Exxon, Total, Tamoil, Kuwait, and Shell. In this framework it was found that the participants of the oligopolistic market had come to a competition restricting agreement, including the refusal from competing with each other at actual airline tenders, as well as other anti-competitive behavior. According to the results of the case hearing, vertically integrated oil companies have been fined more than 300 million euros.

Russian experience. From 2008 to 2011, the FAS Russia considered the three "waves" of cases on abuse of collective dominance position in the market by large vertically integrated companies, both state-owned companies, such as Gazprom Neft and Rosneft, and private companies Lukoil, TNK-BP, and Bashneft. The courts have fully confirmed the legality and validity of the conclusions of the FAS Russia. The amount of fines transferred to the budget of the Russian Federation was more than 500 million euros.

The FAS Russia also considered a set of cases against fuel complexes in airports. The Rules for Non-Discriminatory Access to Services and Essential Facilities of Infrastructure in Airports have been in force beginning 2009. Alternative fuel complexes are actively developing; at least two fuel complexes operate in each of 26 airports. This promotes growth of air transportation. Since 2010 growth of air transportation has been exceeding 20% per annum.

The aspects noted of market analysis are in the picture of in the country (cross-country) analysis of markets for oil and oil products.

German experience. The study of the oil sector in Germany conducted by Germany Competition Authority found collective dominance of five companies (BP, Shell, ConocoPhillips, ExxonMobil and Total) in the retail market of oil products.

EU experience. Other countries, including the UK, Poland and Spain have also investigated markets for oil and oil products. Bruno Lasserre, the Chair of the European Competition Network urged EU Member States “to pool their resources to launch common sector inquiries.” (GCR, September 2012)

The subject of the Working Group’s **third session** (September 2012, Kazan) was the monitoring of the oil and oil products markets, which the Working Group’s participants constantly observe both by direct use of competition authorities’ resources and means and within the system of the state and branch departmental statistics, taking into account social and economic importance of these commodity markets.

The Working Group noted importance and efficiency of the automatic data base being used for collecting and processing information in particular, in Austria, Russia, Ukraine, USA, and other countries.

Austria's experience. The Austrian Federal Competition Authority demonstrated its system for monitoring of the prices at fuel stations created with support of the Austrian public authority E-Control. This system is automatically updated and allows to graphically display information about prices in different regions of Austria in on-line mode on the Google Map.

Russia's experience. FAS Russia uses an automatic system for weekly collection and statistical processing of data on wholesale and retail prices and volumes of oil products in 83 regions of the Russian Federation. Data are divided by large oil companies (VIOC) and independent market players. The FAS Russia also monitors exchange and OTC prices of oil products in the federal wholesale market, and Net Back world prices.

U.S. experience. The statistical model developed by the U.S. Federal Trade Commission allows for daily collection and analysis of data on retail prices of 360 U.S. cities and the wholesale prices of 20 key urban areas at wholesale.

Ukraine's experience. In Ukraine, an automatic system collects the information from large market operators for the database of the Ukrainian Antimonopoly Committee.

Besides, the Working Group, **at the fourth session** (October 2012, London), researched the issues of price formation in the world markets and impact of world prices on wholesale prices in the national markets for oil and oil products. For this purpose, participants of the Working Group visited the headquarters of major world PRAs Argus and Platts, and also the Intercontinental Exchange (ICE). In London, the Working Group had detailed discussions of the principal aspects of oil and oil product pricing in the world markets, of mutual influence of the physical oil and oil product markets and the derivatives market, of independence of pricing institutes, of transparency and validity of methodologies and procedures of assessments, and other issues.

World prices have an impact on prices in national markets, both of large and small countries, and both of importing countries and exporting countries.

As for the experience of Portugal's Competition Authority, according to the multivariate comparative analysis of the oil and oil products market in the countries of the European Union, there is an asymmetry of international and domestic prices in most EU Member States. Upward trends are broadcasted from world markets to domestic markets without any delay, and with a high degree of correlation. Downward trends are broadcasted from international markets to domestic markets with delay and with a lower degree of correlation.

From the experience of the Austrian Federal Competition Authority (FCA) gained from the study of the effect of Platts' valuation on pricing in the oil market of Austria, there are some problems concerning the reliability of benchmarking by the Price Reporting Agencies (PRAs), including:

- insufficient data sampling for price analysis and reflection;
- a higher proportion of VIOC's over independent traders in data sampling;
- informal qualitative judgments about prices (an element of subjectivity).

These conclusions correlate with the ones of the International Organization of Securities Commissions (IOSCO).

The Russian Competition Authority also has experience of developing trade of physical oil products at the exchange. The FAS Russia prescribed to VIOCs to sell at least 10% of physically traded volumes of oil products in the domestic market at an exchange in the procedure established by special provisions of the Law on Protection of Competition. In accordance with the Law on Organized Trading and the Act of the Government of the Russian Federation, any OTC transactions made by large VIOCs shall be registered. The volume of registered transactions in Russia exceeds volumes of transactions reported by Platts at 8-10 times. Thereby, a reliable benchmarking of the exchange and off-exchange prices is received.

In Russia, the market price level is determined on the basis of exchange quotations on a physical commodity, indices of the OTC prices under registered contracts, and prices of the comparable foreign markets. The cost of oil and oil products in the domestic Russian market are estimated by three large PRAs Platts, Argus and CORTES, and the exchange Joint Stock Company "St. Petersburg International Mercantile Exchange" (SPIMEX).

Table 1

Institutions of Price Reporting on the Physical Oil and Oil Product Markets

Pricing Institutes	Regulatory	Methods Used	
		World Market	Russian Market
Platts (Mass Media, international price reporting agency)	Own rules (IOSCO recommendations are possible)	The combined method based on use of results of transactions on own platform (eWindows) and a "manual" window (polling method and registration of concluded transactions, applications for sale or purchase).	Polling method, processing of results of polls and third-party sources, assessment of the price by own methodology
Argus (international price reporting agency)	Own rules (IOSCO recommendations are possible)	Polling method, processing of results of polls and third-party sources, assessment of the price by	Polling method, processing of results of polls and third-party sources,

		own methodology	assessment of the price by own methodology
Informational Centre "CORTEZ" (informational agency, Russia)	Own rules (IOSCO recommendations are possible)	-	Polling method, processing of results of polls and third-party sources, assessment of the price by own methodology
SPIMEX (exchange, Russia)	Laws*, acts of the Government of the Russian Federation and authorities	Possibility of price quoting at exported oil of Eastern Siberia – Pacific Ocean oil pipeline (ESPO) is discussed	Exchange quotations on results of the auctions on the physical commodities; Price indexes on results of registration of more than a half of transactions in the market of the Russian Federation

*Law on Protection of Competition, Law on Organized Trading

It is necessary to note that at definition of the prices of the Russian oil product market the PRAs use the polling method, which assumes that during polls of market participants the PRAs should receive information on prices of the concluded transactions, and a level of demand or offer on a given oil product. However, recently, the PRAs began to use results received after the exchange auctions of physical commodities (oil products) at SPIMEX, and price indexes of OTC transactions as the main sources of information on real transactions in the Russian market of oil products. At the same time, some "filters" are imposed on this strict information according to the PRAs' techniques that provides their quotations with more subjectivity.

Table 2

Comparative Estimate of Representativeness of Information on Price Index Formation in the Physical Commodity (Oil Products) Market *

Oil Product	Platts			SPIMEX		
	Quantity of barges	Volume (thousands of tons)	Quantity of Transactions	Volume (thousands of tons)	Quantity of Transactions	Average Transaction, (thousands of tons)
Automobile gasolines	1053	2106	1053	2484	7257	0,342
Aviation Fuel	297	594	297	1656	1701	0,974
Diesel	2440	4880	2240	4230	6727	0,629
Total Volume of Oil Products		7580		49670** **incl. 8370		

				transactions at exchange and 41300 OTC transactions		
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*SPIMEX and Platts data.

Following the results of 2012 (see Table 2 above) the trading volumes of physical commodities (gasoline and diesel) at SPIMEX are comparable to the volumes used by Platts at definition of the oil product prices, and the trading volumes of aviation fuel three times exceed those of Platts. Comparison to Platts is done because Platts performs benchmarking of physical commodities using transactions on its platform “eWindows” while at the largest world exchanges NYMEX and ICE future contracts, including oil, are traded. At SPIMEX, unlike NYMEX and ICE, physical commodities are traded (future contracts trade only starts to develop), and also OTC contracts are registered. The results of 2012 demonstrate, that the volume of transactions concluded reported by Platts was 7,580 thousand tons, and at SPIMEX 8,370 thousand tons were traded, whereas the aggregate volume of OTC transactions in oil products registered at SPIMEX was 41,300 thousand tons. Therefore, data under contracts registered at SPIMEX multiply (almost a sequence higher) exceed the volumes of transactions used by Platts. By number of considered transactions SPIMEX considers a bigger number of transactions in 4-6 times. Exchange auctions comply with the provisions of antimonopoly law and the legislation on the organized trading, and registration of transactions is mandatory in accordance with acts of the Government of the Russian Federation and the Administrative Code of the Russian Federation. This makes the Russian estimates much more reasonable, representative and reflecting the actual prices in the market of the physical commodities (oil products).

In recent years the Russian Federation took measures which allowed to generally create commercial infrastructure of the oil and oil product market. Exchange trade in physical commodities and registration of the actual off-exchange transactions at the exchange were developed. Thereby, reliable information about the market of oil products of fundamental character was received. At the same time, the prices of the world market make direct impact on quotations of the domestic market and, therefore, participation of Russia in carrying out joint work with the aim to increase transparency of pricing at the world level is necessary.

IOSCO prepared recommendations for the PRAs, which should eliminate shortcomings of their operations. However, PRAs believe that their operations comply with these recommendations. IOSCO think it necessary to grant PRAs 18 months to take measures aimed at observance of these recommendations. Then, based on the results of the analysis IOSCO offers to make the decision on sufficiency of application of the recommendations, or on need of application of other more drastic measures. Possibility of strengthening the state control, application of self-regulation procedures and other measures is thus discussed.

IOSCO, within preparation of the recommendations, which are aimed at increase of efficiency and functioning of the commodity derivatives markets, taking into account powers of IOSCO members, focused its main attention on the commodity derivatives markets. However, in view of the oil markets importance for world and national economies, and also taking into account the instructions received from G8 and G20,

IOSCO concentrated on oil derivatives, and only as a consequence of this analysis, on the market of physical oil.

IOSCO also notes that in overwhelming majority of the countries there are no authorities, which would supervise the oil markets, similar to independent regulators which exist in the markets of gas and electric energy.

Thus, there exists the experience which has been accumulated by antimonopoly bodies (including international experience), the activity of which focuses on the markets of physical commodities (oil and oil products), which, owing to the social importance of data of the commodity markets, continuously conduct monitoring, and which analyze the oil and oil product markets within hearing of cases on violations of antimonopoly legislation, within performance of control over large mergers and acquisitions, and within country and intercountry analyses of the oil and oil product markets.

Experience on supervision over the physical markets of oil and oil products received by antimonopoly bodies supplements experience of IOSCO in the field of commodity derivatives and preparation of the recommendations on the PRAs' operations.