



## **Legal and Structural Basis for Regulation of Foreign Economic Relations in the Russian Federation Entities (Republic of Buryatia Case)**

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### **ABSTRACT**

The article discusses the study on structural and legal framework for regulating foreign economic relations in the Russian Federation entities, and on the system of government bodies ensuring the development of foreign economic relations in the Republic of Buryatia. Russian Federation entities, in coordination with the Russian Ministry of Foreign Affairs, have the right to enter into agreements with foreign states and entities of foreign federal states, administrative and territorial units of foreign states, to establish their offices abroad, and to increase interest in having foreign state offices in the territory of Russia. Among the entities, the right to develop foreign economic relations is given to legislative and executive bodies - ministries, departments, committees and their structural units (managing departments, divisions) being built on the level of the entity of Russia. Specifically, the Ministry of Economic Affairs in the Republic of Buryatia is granted the power for implementing regional policy tasks in the sphere of international economic cooperation with the subjects of foreign states.

**Keywords:** International Economic Cooperation, Foreign Economic Relations, System of Government

**JEL Classifications:** F53, F59, R58

### **1. INTRODUCTION**

Foreign economic relations are generally known for building relationships between national economies and other economies worldwide, and their development between the nations is usually considered as a top priority for economic policy of the Russian Federation and its constituent entities. The study of organizational and legal methods of foreign economic policy in the entities of Russia is becoming more important in the context of controversial political situation caused by the decision of the European Union Council to introduce some restrictive measures toward the Russian Federation, including economic ones (Council Decision, 2014),

and in response, some specific economic measures to ensure the security of the Russian Federation due to the foreign states' decision to impose economic sanctions in respect of Russian legal and (or) physical entities, or joined same (Decree of Russian Federation President, 2014). Sanctions exchange continues, and responding to the restrictive economic measures of the European Union up to 31 December 2016 (Council Decision, 2015), the Russian Federation extended certain economic measures for another year since August 6, 2015 (Decree of Russian Federation President, 2015). The introduction of such measures considerably limits the ability of the entities of Russia to continue foreign economic relations in trade and economy. According to the Constitution

of the Russian Federation, the constituent entities are entitled to develop international and foreign economic relations. Likewise, the Vienna Convention on the Act of Treaties between states and international organizations or between international organizations provides for the development of foreign economic relations by other participants, apart from states and organizations (Vienna Convention on the Act of Treaties between States and International Organizations, or between International Organizations, 1986). Entity of federal states can act as potential participants.

## 2. METHODS

The research on how to legally regulate foreign economic relations by the Russian Federation entity was undertaken by analyzing the content and assessing the interpretation of federal acts, the acts of constituent entities, local and international legal acts. Within this framework, the system of government in the constituent entities aimed at developing foreign economic relations, and the scope of powers, procedures and kinds of such activities, were observed and defined. We examined full powers of the federal executive bodies, coordinating foreign economic relations of the Russian Federation entities with foreign federal states and their entities, and other administrative-territorial units of foreign states. A careful consideration is given to the procedures of their interaction with authorities of the Russian Federation including the procedures for coordinating tasks and decisions of the entities with the authorized federal executive bodies. We made a comparative analysis that would determine the federal legislative norms, regulatory legal acts of federal executive bodies, acts of entities using the example of Buryatia's acts, and the acts of entity authorities in the Russian Federation. Most significantly, gaps in the legal relationships and basic principles of the further development of common acts were identified, as well as alternative solutions to the problems of legal regulation of foreign economic relations in the entities of Russia.

## 3. RESULTS

### 3.1. Concept and Content of Foreign Economic Relations in Entities of the Russian Federation

Foreign economic relations, as defined in paragraph 2, Article 1 of the Federal Act "On coordination of international and foreign economic relations of the constituent entities of Russia" (Federal Act, 1999), are understood as relations with foreign partners in trade, economic, scientific, technical, environmental, humanitarian, cultural and other fields. Based on this definition, foreign economic relations include holding negotiations and making agreements on the development of trade and economic relations between the entity of federation and foreign partner. The term "foreign economic links" is used in terms of activities of the entity and it emphasizes non-political nature of such relationships, as well as a level and scope of their development, while the term "foreign economic relations" in such case applies to the activities of the state in foreign economic sphere. Powers of the Russian Federation entities on the extension of foreign economic relations are exercised by the authorized government bodies, the system of which is formed according to part 2, Article 11 of the Russian Federation Constitution (Constitution of the Russian Federation, 1993), and

taking into account Part 1, Article 77 of the Constitution, it is established by the constituent entities independently in accordance with the general principles of constitutional system of the Russian Federation and general principles of state governmental representative and executive bodies. Coordination of international economic relations is attributed, in accordance with paragraph "O," Article 72 of the Constitution, to the issues of joint jurisdiction, which stipulates the necessity to coordinate actions of the entities and federal authorities for extending foreign economic relations. The procedure for such coordination is listed in the Federal Act "On Coordination of International and Foreign Economic Relations of the Entities of the Russian Federation." According to Paragraph 1, Article 1 of the Federal Act "On Coordination of International and Foreign Economic Relations of the Russian Federation Entities" foreign partners of the region are understood as the entities of foreign federated states, administrative and territorial entities of foreign unitary states, as well as international organizations engaged in the activities of developing relations on the interregional level. Foreign economic relations of the entities of Russia and foreign states are permissible under consent of the Russian Federation Government. The decision-making process of the Government's agreement for the entities to build economic ties is guided by the resolution of the Russian Federation government about its decisions on the common entity's agreement to build international economic relations with the governmental bodies of foreign countries (Decree of Russian Federation Government, 2000), according to which such decision is made on the basis of a statement of need by the request of entity's executive bodies and approval of the Ministry of Foreign Affairs, the Ministry of Justice of the Russian Federation and other federal executive bodies in accordance with their powers. A list of the bodies is open, and does not require specifying the order of agreement. However, on 18 June 2015 the Ministry of Justice has made a draft decree of the Government of the Russian Federation (Bill of Russian Federation Government, 2015), which details the procedure of making decisions, defines a list of documents for the submission to the Ministry of Economic Development of the Russian Federation, which in turn sends them to the Ministry of Foreign Affairs of the Russian Federation and the Russian Ministry of Justice for their approval for no more than 30 days since the date of receipt. When building foreign economic relations, the requirement for entities to seek the approval of the Russian Government and other federal authorities is a well-reasoned decision, and it is necessary for the purpose of ensuring the unity of foreign policy of the Russian Federation. However, the issue raises a necessity to justify a need for such relations. The absence of proper justification by a constituent entity is likely to result in the rejection of approval of the Russian Government for any foreign economic ties. Consequently, this may limit the right of the entity to exercise its powers for both the Russian Federation and itself, provided that such foreign economic relations might not enter the realm of the Russian Federation.

### 3.2. Forms of Foreign Economic Cooperation in Entities of the Russian Federation

Entities of the Russian Federation will have an opportunity to develop foreign economic relations by making agreements with foreign partners in coordination with the Ministry of Foreign

Affairs (RF); establishing offices abroad, granting their consent to offices of administrative and territorial units of foreign states located on the territory of the constituent entity. At the same time, according to the Federal Act “On International Treaties of the Russian Federation” (Federal Act, 1995), agreements made by the entity with a foreign partner are not considered international agreements. The performance of regional representative office is aimed at reaching agreements on international and foreign economic relations, and, consequently, it excludes diplomatic and consular functions. In entities of Russia the right to implement foreign economic relations is vested in both legislative and executive powers - Ministries, Departments, Committees or their Subdivisions, created on the level of the entities. Powers of the entities in the field of foreign trade are considerably determined by the regional legislation. Therefore, the people’s Khural of the Republic of Buryatia along with the President of Buryatia are responsible for domestic policy and foreign economic relations in the republic (Act of the Republic of Buryatia, 1995). For instance, the Ministry of Economy has a power to implement the republican policy in the field of international economic cooperation between the Republic of Buryatia and foreign entities (Decree of the Government of the Republic of Buryatia, 2012). Legislation of the entities of Russia on foreign economic cooperation can also grant a wide mandate to the government authorities of the Russian Federation entities in this area. For example, according to the Act of the Buryat Republic “On the treaties and agreements of Buryatia” (Act of the Republic of Buryatia, 2010), the republic is authorized to enter into agreements, i.e., a bilateral and/or multilateral acts establishing, modifying and terminating by mutual consent of the rights and responsibilities of the people’s Khural of the Republic of Buryatia, the Government of the Republic of Buryatia, on the one hand, and federal executive bodies, government authorities of any other entity, associations of economic cooperation of the Russian Federation and government authorities of foreign states, entities of foreign federal states, administrative and territorial units of foreign states, and international organizations and institutions, on the other hand. The agreements of the Republic of Buryatia, made on behalf of the people’s Khural of the Republic of Buryatia, include agreements on inter-parliamentary cooperation with chambers of the Federal Assembly of the Russian Federation, legislative bodies (government authorities) of other entities of Russia, entities of foreign federated states, and administrative and territorial units of foreign states, as well as international inter-parliamentary organizations. The agreements of the Republic of Buryatia, made on behalf of the Republic of Buryatia Government, include agreements between the Government of the Republic of Buryatia and state governmental bodies of other entities of the Russian Federation, associations on economic cooperation in entities of the Russian Federation, government authorities of foreign states, entities of foreign federal states, administrative units of foreign states and international organizations.

### 3.3. Agreements of Entities of the Russian Federation on Foreign Economic Relations

It is important to note that foreign economic relations of the Russian Federation entities should be implemented in accordance with the state foreign policy. The unity of foreign policy is maintained by the Ministry of Foreign Affairs and the Ministry

of Economic Development of the Russian Federation. The unity of foreign policy in the Russian Federation is regulated by the Decree of the Russian Federation President “on coordinating role of the Ministry of Foreign Affairs in the unified foreign policy of the Russian Federation” (Decree of the Russian Federation President, 2011), where subparagraph “A”, paragraph 3 says that executive bodies of the entities of Russia are obliged to inform the Ministry of Foreign Affairs of the Russian Federation of any international cooperation and international partnerships including official visits, consultations and negotiations, signed documents and other arrangements, except that the rules and procedures of such notifications are not legally regulated. The presidential decree imposes an obligation to inform the executive bodies of the entities, while the Federal Act “On Coordination of International Economic Cooperation of the Russian Federation Entities”, in Paragraph 1 of Article 3, lays the responsibility on any government authority of the Russian Federation entity. Based upon the rule of federal act, the entity may impose a duty to notify the federal executive agency about any negotiations and agreements on foreign economic cooperation onto any entity’s regulatory body. The procedure for such negotiations is set by the entity independently. Furthermore, government bodies of the entity are to inform the Ministry of Foreign Affairs about draft agreements on establishing foreign economic cooperation, and to inform about planned international events and send the reports on the implementation of activities and agreements. Additionally, according to Article 5 of the Federal Act “On Coordination of International and Foreign Economic Relations of the Russian Federation Entities”, the agreements made by the government authorities of the entities have to be registered by the Ministry of Justice of the Russian Federation. In accordance with the rules of state registration of agreements on international and foreign economic cooperation (Decree of Russian Federation Government, 2000), made by the state authorities of the entity, the state registration includes: (a) Making a decision on state registration or its refusal; (b) giving a registration number to the agreement; (c) putting an entry into the state register of agreements made by the entity’s government authorities. The basis and procedure for the decision to refuse the agreement registration are included in the explanations on rules application (Russian Federation Ministry of Justice Order, 2011), according to which the procedures of defining contradictions of this agreement to the Constitution of the Russian Federation, widely recognized principles and norms of international act, international treaties of the Russian Federation, federal acts, treaties between the government of the Russian Federation and government bodies of entities of the Russian Federation on the division of jurisdiction and powers, and the infringement of legitimate interests of other entity of the Russian Federation must take place. The reasons for such refusal are specified in the final statement issued by the Ministry of Justice of the Russian Federation. Violation of the agreement registration by any entity authority may also be a reason for refusal in registration. International economic cooperation must be developed and represented by a senior official of the Russian Federation entity, according to subparagraph “A”, Paragraph 7, Article 18 of the Federal Act “On general principles of legislative (representative) and executive government bodies’ structure in the Russian Federation entities” (Federal Act, 1999). Thus, the President of the Republic of Buryatia, according to Article 9 of

the Act of the Republic of Buryatia “On the Head of the Republic of Buryatia”, monitors foreign economic relations and represents the Republic, signs contracts and agreements on behalf of the Republic of Buryatia (Act of the Republic of Buryatia, 1994). Besides, he appoints and dismisses representatives of the Head of the Republic of Buryatia and the Government of the Republic of Buryatia in foreign countries.

### 3.4. Offices of Russian Federation Entities in the Territory of Foreign State

To implement international economic cooperation by establishing representative entity offices, or offices of foreign partners in the territory of Russia, the consent of the Ministry of Foreign Affairs of the Russian Federation is required. The general procedure for submitting the documents to obtain such consent is regulated by the Recommendations of the Ministry of Foreign Affairs of the Russian Federation on the preparation of documents for establishing the Russian Office abroad. According to the guidelines, an office may be established on the basis of the protocol that proves that a foreign partner agrees for the office to be established in the territory of the region or administrative and territorial unit, or it must be under control of any regulatory body or government body of the foreign state. The activity of the office is regulated by the document on entity office and constituent documents, as the office is a legal entity, and its activity is financed by the regional budget. Consequently, a citizen of the Russian Federation can be in charge of the office. The protocol and the draft document on the representative entity office are to be submitted to the Ministry of Foreign Affairs. The representative offices are specifically created to facilitate the implementation of agreements on cooperation and development of foreign economic relations. For instance, based on the Decree of the Government of the Republic of Buryatia (Decree of the Government of the Republic of Buryatia, 2014) the Office of the Buryat Republic was established in Ulan-Bator, Mongolia. It represents the interests of the Republic of Buryatia in Mongolia in terms of trade, economic, scientific and technical cooperation. The Office also assists the organizations of the republic in making foreign trade contracts, establishing joint ventures, attracting investments from Mongolia and other countries into the economy of the republic and other spheres of public life, herein it has a state accreditation in the location area. It is expected to report to the Government of the Republic of Buryatia and must carry out the instructions of the Head of the Republic of Buryatia, as well as other authorities of the republic, which are coordinated and sent through the Government of the Republic of Buryatia. The office also performs the functions of informing legislative, representative and executive authorities of the republic about social and economic situation in Mongolia, its markets and other matters of concern. The Russian Embassy in Mongolia coordinates activities of the Office of the Republic of Buryatia. The Office is also authorized to make proposals for developing international relations under the guidance of government bodies, local self-government authorities and organizations of the Buryat Republic with Mongolian partners in trade, economic, scientific, technical and other areas. Since it is a legal entity with certain powers, it owns the property based on the right of operational management, and has the right to own a property in the territory of Ulan-Bator and is solely responsible for fulfilling its obligations.

## 4. DISCUSSION

In this paper we proposed the study on structural and legal forms of regulating foreign economic relations of constituent entities, which are as follows:

- Granting consent by the Russian Government to the entities to exercise their powers by implementing foreign economic relations with the governments of foreign states on the basis of the entity’s request, containing a rationale for establishing such relations.
- Obtaining the approval of the Ministry of Foreign Affairs of the Russian Federation and, if necessary, of other federal executive bodies, and further registration of draft agreements on international and foreign economic relations, made by the government bodies of the entities of Russia with foreign states, the entities of foreign federal states, administrative and territorial units of foreign states.
- Obtaining the approval of the Ministry of Foreign Affairs of the Russian Federation for the establishment of representative entity offices in the territory of foreign states, entities of foreign federated states, administrative and territorial units of foreign states.
- Obtaining the approval of the Ministry of Foreign Affairs of the Russian Federation for the establishment of representative offices of foreign states, entities of foreign federated states, administrative and territorial units of foreign states in the territory of the Russian Federation.

The analysis of the current legislation, regulating the establishment of foreign economic relations by the Russian Federation entities, has revealed some problems in the regulation of foreign relations and the contradictions in some legal acts. First of all, some concepts like “foreign economic links” and “foreign economic relations” should be clarified. It is also necessary to keep the balance between the interests of the Russian Federation and the interests of the entities, while ensuring the unity of the state’s foreign policy and coordination of foreign economic relations in the entity of Russia. Since the coordination of foreign economic relations relates to the issues of joint jurisdiction of the Russian Federation and its entities, it makes it necessary to identify the procedures for coordinating actions of the Russian entity authorities and authorized federal government bodies, which will not confine the constitutional rights of the entity in developing foreign economic relations. The procedures of coordinating decisions of the Russian entity authority on foreign economic relations with the Russian Federation government and coordinating the draft agreements of the entity with foreign partners also require clarification. Based on the results, it can be concluded that the procedures for obtaining approval of the Ministry of Foreign Affairs of the Russian Federation for establishing representative entity office outside the state, and foreign offices in the territory of the entity are still left out of consideration. Lack in well-structured procedures does not contribute to the consistency of legislation on the efficient coordination of foreign economic relations in the Russian Federation entities. The right to establish foreign economic relations is given to the local self-government authorities, according to Paragraph 8 of Article 17 of the Federal Act “On General Principles of Local Government in the Russian

Federation” (Federal Act, 2003). These powers are granted to the local authorities to solve local problems in accordance with federal acts. For instance, the charter of the municipality “City of Ulan-Ude” (Decision of Ulan-Ude City Council, 2007) says that the City Council and the City Administration may develop international economic cooperation in accordance with federal acts. In order to build foreign economic relations, local authorities are entitled to make agreements with foreign partners, such as administrative and territorial units of foreign states. However, the procedure of coordinating the actions and the agreements of local authorities on establishing foreign economic relations with the executive bodies of the Russian Federation is not defined.

## 5. CONCLUSION

For the regions to be effectively engaged in international economic cooperation, powers of the entities on coordination of foreign economic relations should be clearly defined. The study has shown that it is evident to develop and define the procedures for coordinating decisions of the Russian Federation entity with the Ministry of Foreign Affairs related to the establishment of the representative entity office in the territory of a foreign state, as well as the one of a foreign state, foreign federal subject, administrative and territorial unit of a foreign state in the territory of the Russian entity. A key limitation of this research is that it does not address the issues of legal regulation of foreign economic relations performed by the local self-government authorities and coordination of these economic relations by any entity of Russia. In our future research we intend to focus on analyzing special aspects of legal regulation of foreign economic relations in constituent entities.

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