

Concepts for Joint Ventures in Russia

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Russian Joint Venture Company

- **Legal form**

- OOO
- ZAO

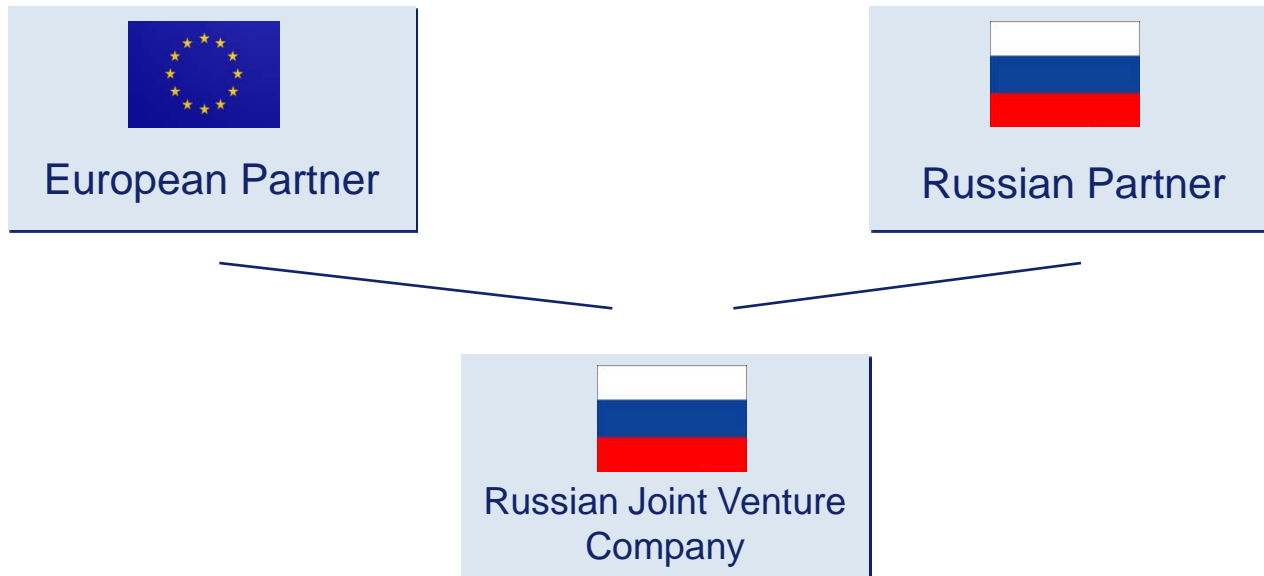
- **Disadvantage**

- Difficulties of Russian law (e.g. options, voting trust agreements) – but:
improvements under new law on OOO !

- **Advantage**

- **Often complies with the demands of the Russian partner**

Russian Joint Venture Company Model



Non-Russian Joint Venture Company – Part I

■ Structure

- Partners hold shares in joint venture company
- Joint venture company holds shares in Russian operating company

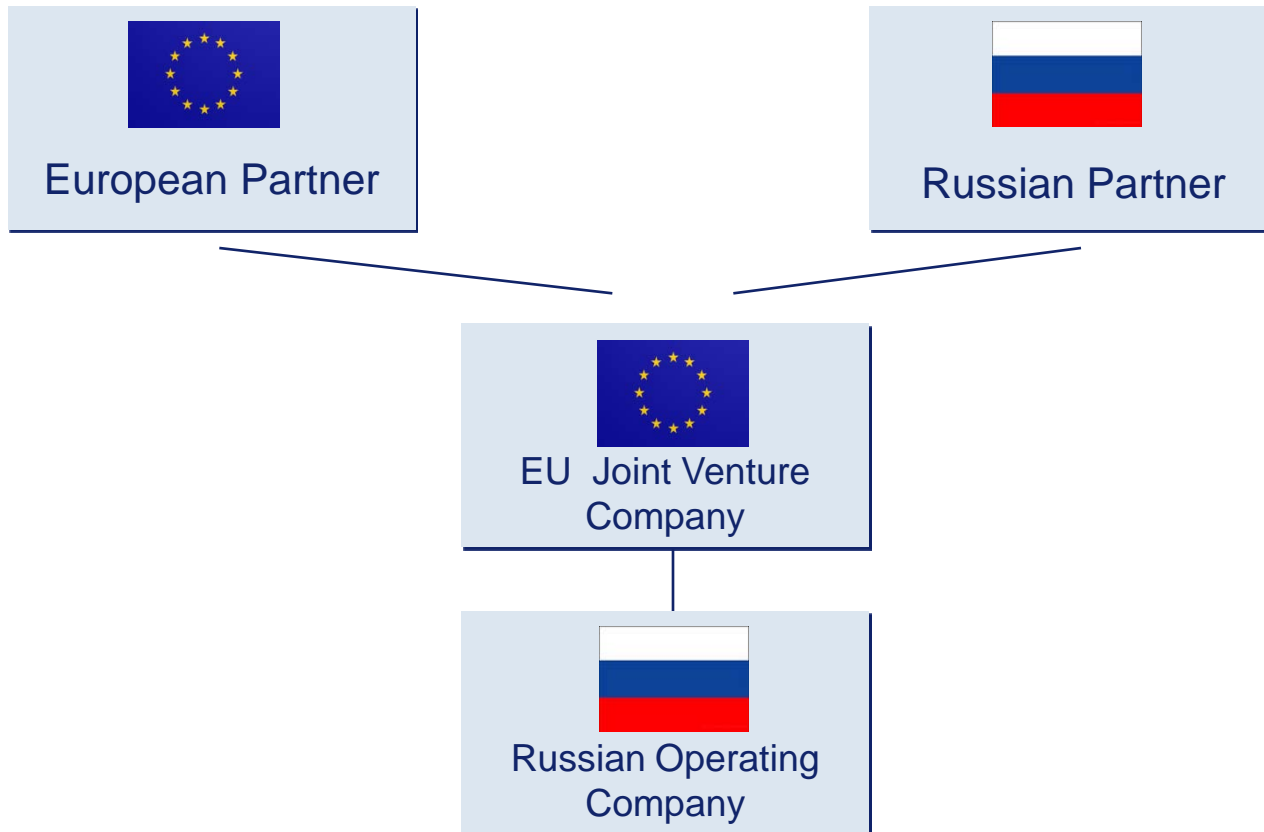
■ Place of registration

- Often: Netherlands, Cyprus, BVI, Switzerland
- Alternatives: Germany, England

■ **Important:** Taxation of payments to joint venture company under relevant double taxation treaty:

- Dividends
- Royalties
- Interest payments

Non-Russian Joint Venture Company Model



Non-Russian Joint Venture Company - Part II

■ Advantages

- Relationship between partners can be governed by suitable national law
- Legal venue for disputes may be a non-Russian arbitration tribunal

■ Disadvantages

- Complicated structure
- Management split between two legal entities
- Recognition of arbitration awards of non-Russian arbitration tribunal often problematic

Formation – Part I

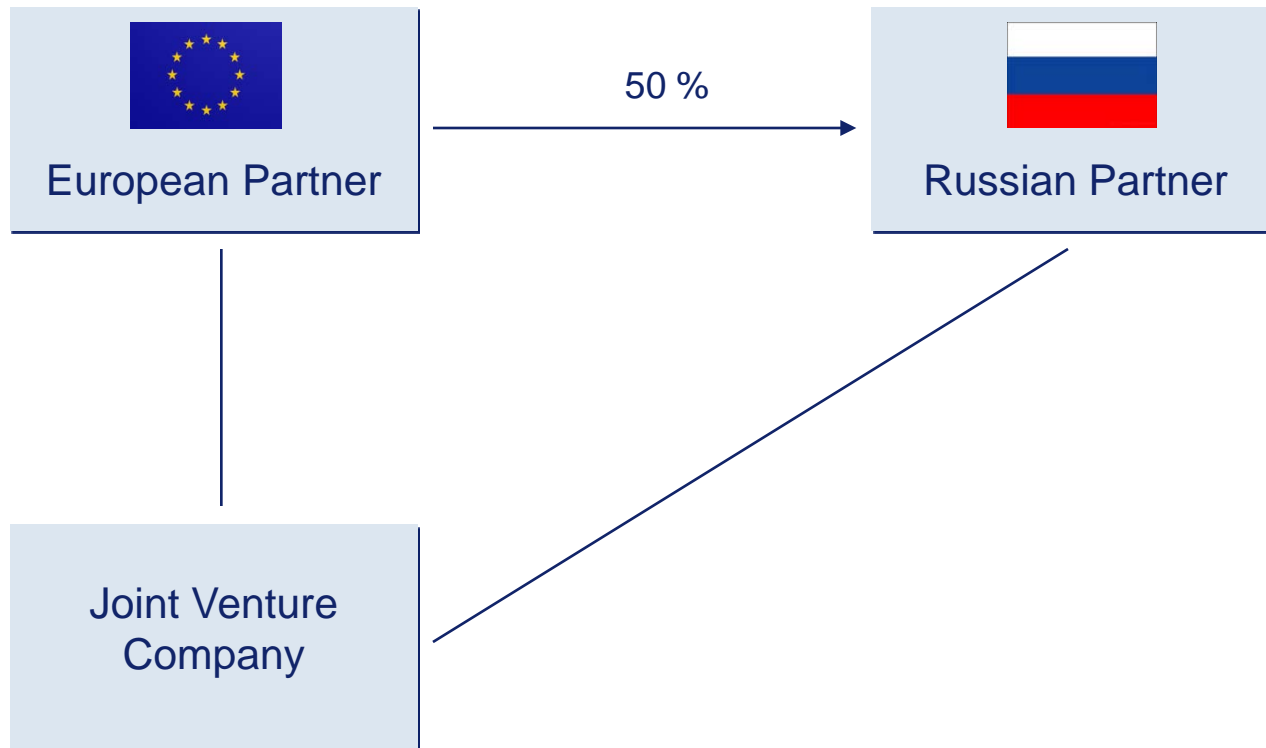
■ Alternatives

- New formation of joint venture company and operating company
- Acquisition of shares in existing company

■ New formation

- **Important Advantage:** No liability for obligations from previous activities
- **Important Disadvantage:** Business must be established from scratch by contributions to the share capital or purchases

Formation - Model



Formation – Part II

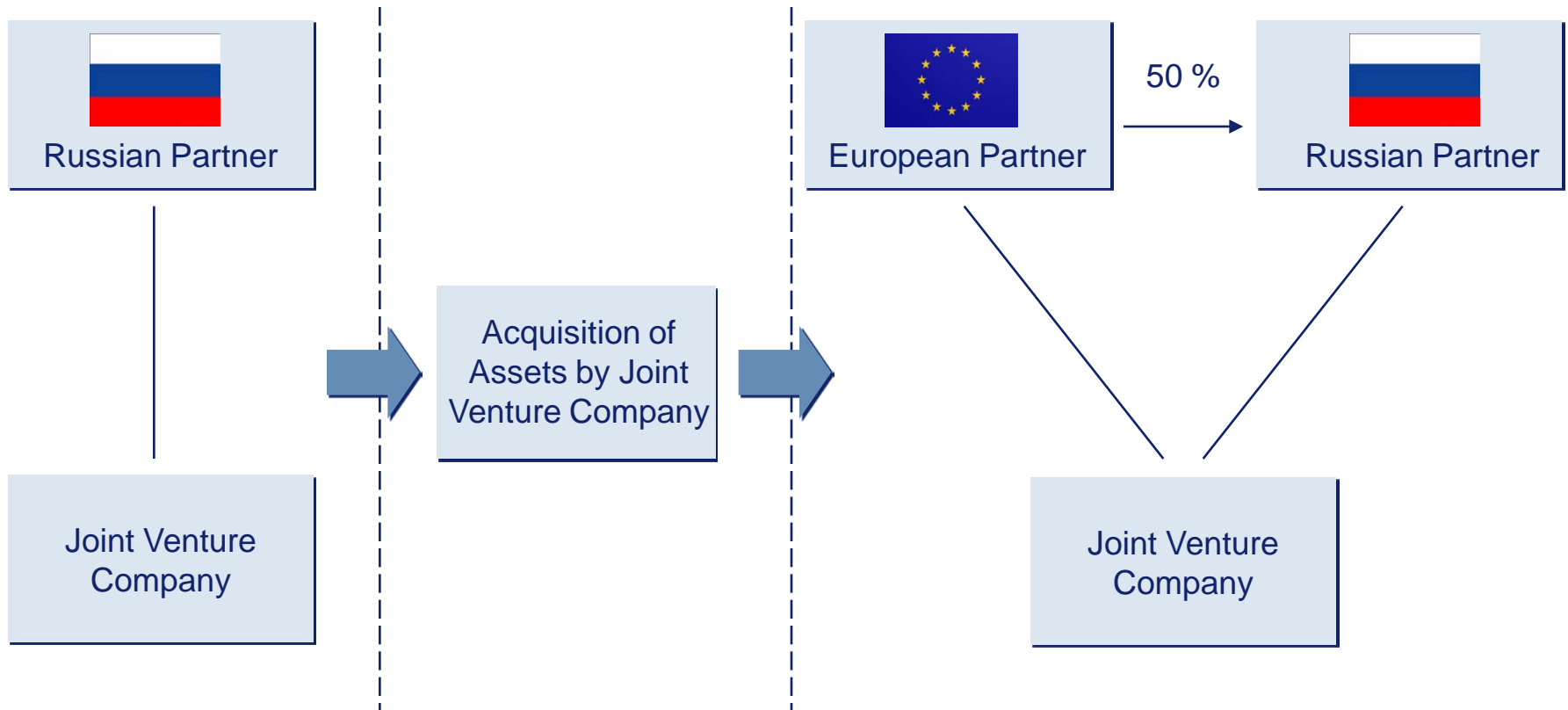
■ Often Used Concept

- Establishment of joint venture company by Russian partner
- Acquisition by joint venture company of assets
- Acquisition of shares in joint venture company by non-Russian partner after thorough due diligence

■ Advantages

- No liability for previous activities
- Russian partner responsible for arrangement of acquisition of assets

Formation - Model



Financing by European Holding

■ Contributions

- Upon establishment of joint venture company
- In the course of an increase of the share capital

■ Loans

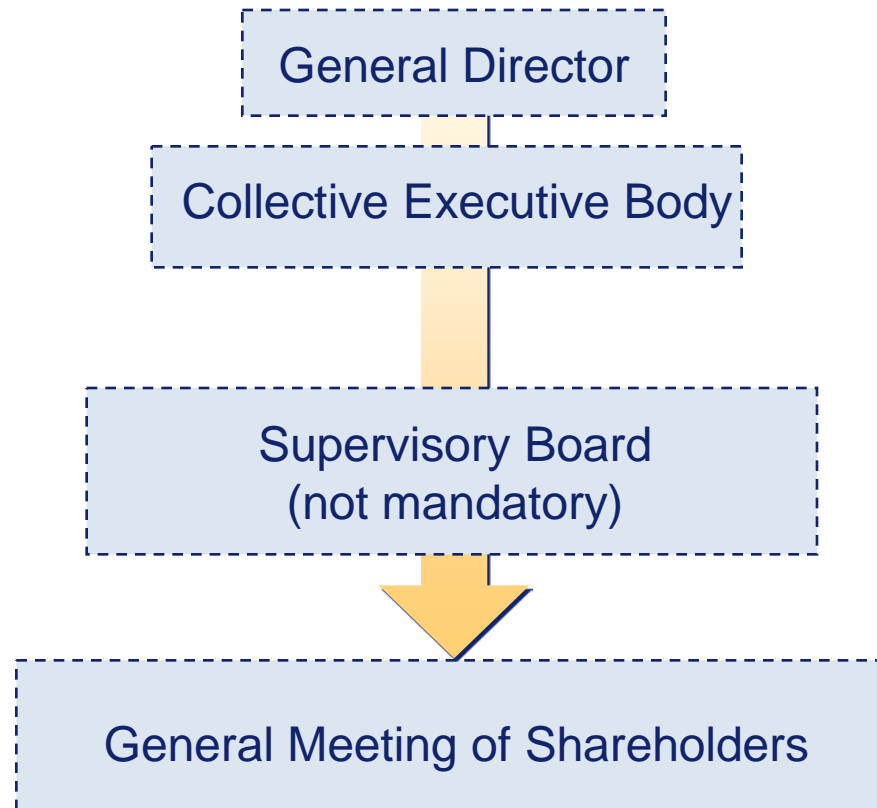
- Profit withholding tax according to double taxation treaty (e.g. Germany 5 or 15% dependent on amount of capital share)
- **Thin Capitalization Rules (!)**

■ „Contributions to the Property“

Management Structure – Part I

- **Management Bodies**
 - General meeting of shareholders
 - Supervisory board
 - Executive body
- **Determination of Reserved Matters**
 - Increase of share capital
 - Important investments
 - Transactions with large volume
 - Finance transactions
 - Long-term agreements

Management Structure - Model



Management Structure – Part II

- **Appointment of General Director and Other Managers**
 - Right of nomination
 - Reservation of consent
- **Powers of General Director under Russian Law**
 - Unlimited power of representation in relation to third parties
 - Internal limitation by reservation of consent of other body (e.g. collective executive body, supervisory board or general meeting of shareholders)
 - Transaction executed in breach of internal limitation may only be challenged if the counterparty knew or should have known of such breach

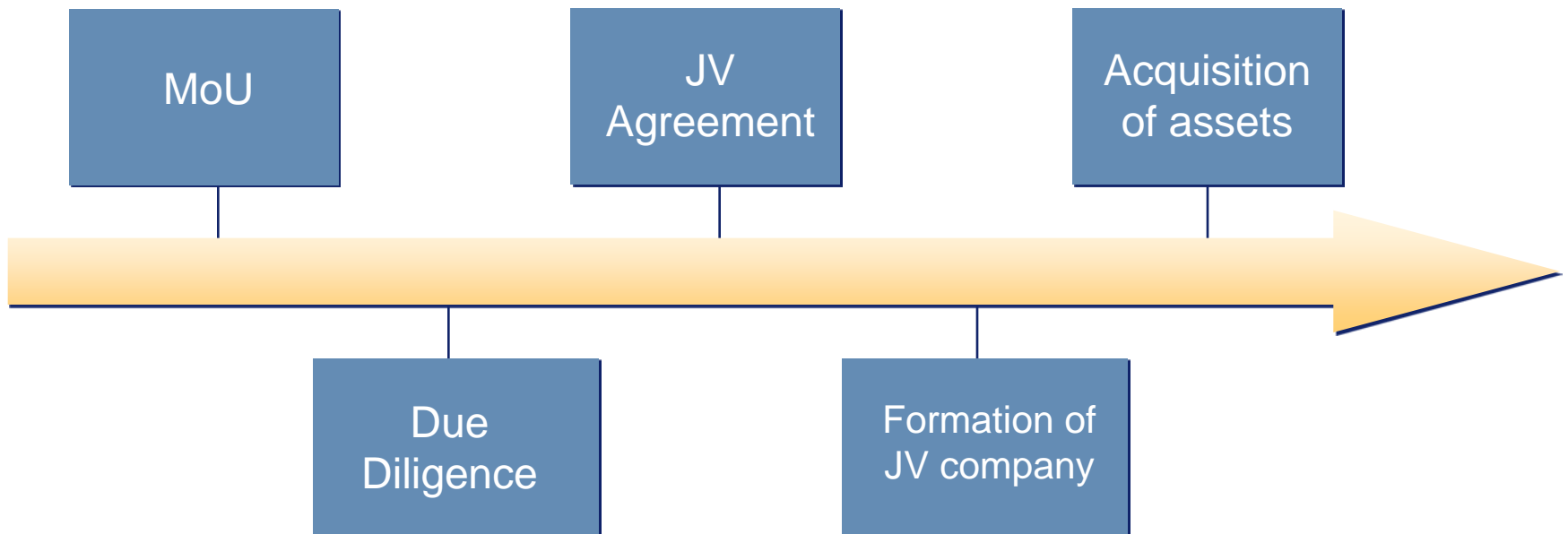
Management Structure - CFO

- **Position**
 - Member of collective executive body
 - Employee
- **Reservation of consent to actions of the general director**
- **Chief Accountant**
 - Mandatory position in Russian businesses
 - Relation to CFO

Steps for Setting up Joint Ventures – Part I

- **Memorandum of Understanding with Preliminary Agreement on**
 - Structure of joint venture
 - Establishment of operating business
 - Conduct of due diligence review
- **Due Diligence Review, in particular, covering the following:**
 - Establishment and operation of the joint venture company,
 - Title to important tangible and intangible assets (e.g. real estate, IP-rights)
 - Important agreements (e.g. with important suppliers and customers)

Steps for Setting up Joint Ventures - Model

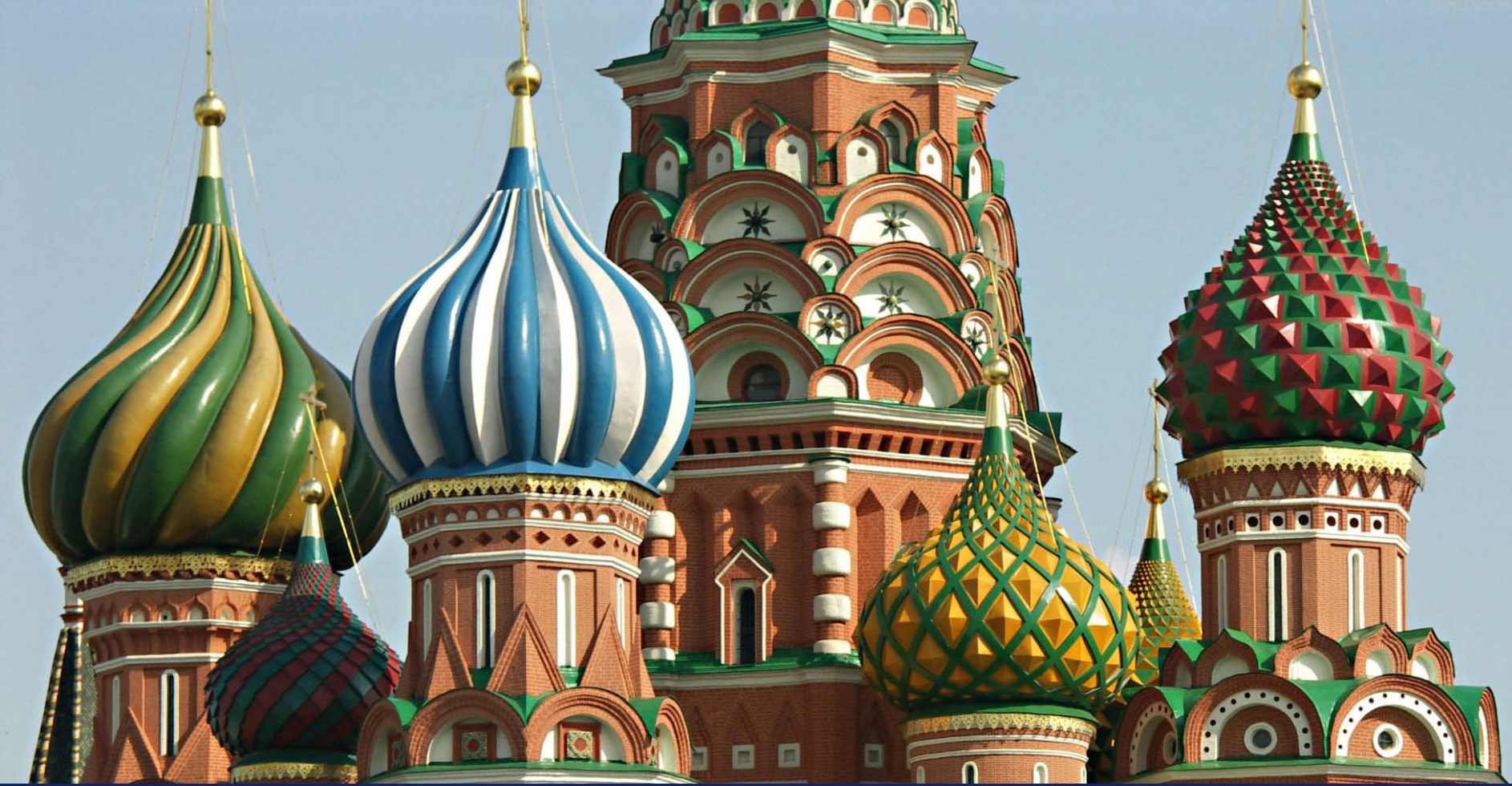


Steps for Setting Up Joint Ventures – Part II

- **Joint Venture Agreement:**
 - Setting up of business
 - Rights (e.g. options) and obligations of shareholders
 - Financing
 - Resolution of disputes, in particular, in deadlock situations
- **Establishment of company**
- **Acquisition of assets**
- **Others**
 - Further due diligence on establishment of company
 - Acquisition of share by non-Russian partner



Thank you very much for your
attention!



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