

2022 Report on the Implementation and Enforcement of Russia's WTO Commitments



United States Trade Representative
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Implementation and Enforcement of Russia's WTO Commitments

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I. Introduction

Russia became a Member of the World Trade Organization (WTO) on August 22, 2012, 19 years after first applying to join the *General Agreement on Tariffs and Trade 1947* (GATT 1947) in 1993.¹ During the years leading up to accession, Russia adopted numerous measures (laws, regulations, resolutions, decrees, and other directives) to modernize its economy and create a stable business environment. Through the WTO accession negotiation process, WTO Members worked with Russia to ensure that Russia's legal regime incorporated the key WTO principles of national treatment, most-favored nation (MFN) treatment, transparency, and, more generally, the rule of law. The *Report of the Working Party on the Accession of the Russian Federation to the World Trade Organization* (WPR), reflecting the results of Russia's work and the accession negotiations, discusses the process by which Russia became a WTO Member.

This Report on the Implementation and Enforcement of Russia's WTO Commitments (the Russia WTO Report or the Report) for 2022 is prepared pursuant to section 201(a) of the Russia and Moldova Jackson-Vanik Repeal and Sergei Magnitsky Rule of Law Accountability Act of 2012 (P.L. 112-208) (the Act). This provision requires the U.S. Trade Representative to submit annually a report to the Committee on Finance of the U.S. Senate and the Committee on Ways and Means of the U.S. House of Representatives assessing the extent to which Russia is implementing the WTO Agreement (including the Agreement on the Application of Sanitary and Phytosanitary Measures and the Agreement on Trade-Related Aspects of Intellectual Property Rights) and the progress Russia has made in joining the Information Technology Agreement (ITA) and the Agreement on Government Procurement (GPA). In addition, to the extent that the U.S. Trade Representative believes that Russia is not fully implementing its WTO commitments or not sufficiently progressing to join the ITA and the GPA, the Report is to describe the actions that USTR plans to take to encourage Russia to improve its implementation of its commitments or increase its progress toward acceding, as the case may be.

The 2022 Russia WTO Report is prepared also pursuant to section 201(b) of the Act that requires that the U.S. Trade Representative submit annually a report to the Committee on Finance of the

¹ In 1994, Russia's GATT Working Party was transformed into a working party on its accession to the WTO.

U.S. Senate and the Committee on Ways and Means of the U.S. House of Representatives describing the enforcement actions taken by USTR to ensure Russia's full compliance with its obligations as a Member of the WTO.² The 2022 Russia WTO Report thus provides an assessment of the extent to which Russia is implementing its WTO commitments, an enumeration of the steps USTR has taken to enforce those commitments, and a description of the actions USTR plans to take in the coming year to press Russia to comply with its WTO obligations.

In the development of this Report, USTR has drawn on the expertise of numerous individuals who have studied and worked with Russia over the years. USTR solicited comments from interested parties, both throughout the year and in the preparation of this Report,³ and collected information from other U.S. Government agencies. USTR staff also called on their years of experience studying and analyzing Russia's economic policies, including negotiating Russia's WTO accession. However, because the United States has ceased direct engagement with Russia on trade and investment issues as a result of Russia's full-scale invasion of Ukraine in February 2022, both bilaterally and at the WTO, USTR has had virtually no opportunity to press Russia to comply with its WTO obligations.

II. Executive Summary

December 2022 marks the tenth anniversary of Russia's accession to the WTO. Although Russia had, by 2012, liberalized its trade regime, opened its markets, and introduced important reforms in anticipation of expanding its participation in the global trading system, that trajectory did not last.

U.S.-Russia trade over the past ten years has seen significant fluctuations in both imports and exports, but overall bilateral trade has declined. Total U.S. imports from Russia in 2021 were

² In addition, the U.S. Trade Representative and the Secretary of State are required to submit annually to the same committees a report that describes the actions the agencies have taken to promote the rule of law in Russia and that discloses the status of any pending petition for espousal filed with the Secretary of State by a U.S. investor in Russia. That report will be submitted separately.

³ See Appendix 1 for list of parties who filed public comments. The Trade Policy Staff Committee (TPSC) did not host a public hearing due to a lack of parties requesting to testify.

\$29.6 billion, only a slight rise from \$29.4 billion in 2012.⁴ Total U.S. exports to Russia were \$6.4 billion in 2021, compared to \$10.7 billion in 2012. Some of that decline in recent years was undoubtedly due to the global decline in trade due to the COVID-19 pandemic, but some of the decline is also likely due to Russia's increasingly inward-looking industrial and trade policies.

In 2022, U.S.-Russia trade relations were governed in large part by the imposition of severe sanctions by the United States and its partners and allies in response to Russia's full-scale war against Ukraine and its attempted annexation of sovereign territory of Ukraine. Those sanctions specifically exempted food and humanitarian goods, but the extensive U.S. export controls, sanctions on financial and logistics services, as well as reputational risks of doing business in Russia, have resulted in a significant diminution of trade between Russia and the United States. In addition, the increased geo-political tensions and the reputational risks have led hundreds of U.S. companies to withdraw from, or significantly reduce their presence in, Russia. Finally, as a consequence of Russia's invasion of Ukraine, the United States has ceased virtually all bilateral engagement on trade and investment issues with Russia.

As noted in past Reports, Russia has reverted to a trade policy that is more autarkic in nature; Russia's trajectory showed no change in 2022. Russia still restricts bilateral trade through import bans on a wide variety of agricultural products and high tariffs (above their WTO bound rates) on certain industrial products. Russia also limits exports of certain industrial products and, notwithstanding the global food security crisis, restricts a wide variety of agricultural products and agricultural inputs. Other behind-the-border restrictions on bilateral trade and preferential treatment for domestically produced products include recycling fees and taxes that raise the price of imports more than domestically produced vehicles; an import licensing regime that acts to restrict imports of consumer technology products; food safety measures that are not based on science; and a domestic tax regime that favors domestic software and domestic technology companies. Russia favors the domestic technology sector also through subsidies, just as it has long provided subsidies to the agricultural sector.

⁴ It is worth noting that energy products (primarily petroleum products) have historically comprised nearly half of U.S. imports from Russia.

Import substitution remains a core tenet of Russia's industrial policy. Alongside the non-tariff measures imposed on imports, Russia has enacted explicit import substitution policies across a wide range of products. These policies applied initially to government procurement, but have been extended to purchases by state-owned enterprises, and even to private enterprises. To support its import substitution regime, Russia has adopted local content requirements, domestic purchasing quotas, and bans on purchasing imported equipment.

In short, 2022 saw a continuation in Russia's disregard for its WTO commitments. Russia continues to erect walls around its economy. Although the United States has ceased virtually all engagement with Russia on trade and investment issues, either bilaterally or in the WTO, USTR will continue to consult with domestic stakeholders, monitor Russia's actions, and, as appropriate, endeavor to encourage Russia to meet its WTO commitments.

III. Russia and the Customs Union/Eurasian Economic Union

On January 1, 2010, Russia, Kazakhstan, and Belarus began implementing a customs union (the Customs Union or CU) by adopting a common external tariff (CET), following the introduction of a variety of preferential trading arrangements among the three countries over a number of years. On July 1, 2010, a common CU Customs Code entered into force, and on July 1, 2011, the CU member states abolished all customs posts on their internal borders, allowing for the free flow of most goods among the CU member states. Also on July 1, 2010, the three CU member states established the CU Commission as the permanent regulatory body of the CU.

In early 2012, the Eurasian Economic Commission (EEC) replaced the CU Commission as the supranational administrative and policy body charged with implementing external trade policy and regulation for the CU member states. The next significant event in the move toward greater economic integration was the entry into force on January 1, 2015, of the Eurasian Economic Union Treaty (the Treaty) creating the Eurasian Economic Union (EAEU), the successor to the CU.⁵ The following day, January 2, 2015, Armenia joined the EAEU, and on August 12, 2015, Kyrgyzstan became the fifth country to join the EAEU. Moldova became an EAEU observer in 2018 and Cuba and Uzbekistan became EAEU observers in 2020.

⁵ For ease of reading, references to the EAEU in this Report generally include the CU.

The EAEU is larger than the CU in terms of both geographic and substantive scope. The Treaty expanded the competence of the EEC into a number of new policy areas, including financial services, government procurement, intellectual property rights, industrial subsidies, and agricultural support measures. Beyond these areas, the Treaty commits the member states to harmonize national policies over time in the areas of financial regulation, monetary policy, macroeconomic policy, competition, transportation and rail policy, labor migration policy, and policies regulating their markets for oil, gas, and electricity.

Russia and the EAEU have established a legal framework that would allow an EAEU member state to comply fully with its WTO commitments.⁶ Moreover, the “Treaty on the Functioning of the Customs Union in the Framework of the Multilateral Trading System of 19 May 2011” (“Treaty on the Multilateral System”) requires that EAEU measures comply with the WTO Agreement⁷ as well as all commitments set forth in the Protocol of Accession and working party report of each EAEU member state; that the rights and obligations of an EAEU member state under the WTO Agreement override prior and future EAEU agreements and decisions of EAEU bodies; and that any treaty signed by the EAEU be consistent with the WTO commitments of each EAEU member state. When Russia joined the EAEU, it nominally transferred authority over many aspects of its foreign trade regime to the EAEU, including import tariff rates, trade in transit rules, non-tariff import measures (*e.g.*, tariff-rate quotas, import licensing, and trade remedy procedures), customs policies (*e.g.*, customs valuation, customs fees, and country of origin determinations), border enforcement of intellectual property rights, establishment and administration of special economic and industrial zones, and the development of technical regulations and sanitary and phytosanitary (SPS) measures. As a result, many of Russia’s WTO commitments are implemented through EAEU measures. In such cases, Russia’s WPR specifically provides that Russia’s WTO commitments apply whether the Russian government or the competent bodies of the EAEU are responsible for implementation of the relevant commitment.

⁶ Armenia, Kazakhstan, Kyrgyz Republic, and Russia are WTO Members.

⁷ The “WTO Agreement” comprises the Marrakesh Agreement Establishing the World Trade Organization as well as its annexed covered agreements.

IV. Russia in the World Trade Organization

Russia has been a Member of the WTO for ten years. In the past decade, Russia has been an active participant in the institution - attending WTO Ministerials, participating in discussions, using dispute resolution, and going to meetings. At the same time, Russia has not embraced the WTO's open, market-oriented approach to trade, nor has it persevered on its original path of economic reform toward a market-oriented economy and trade regime. Since Russia's further invasion of Ukraine beginning in February, 2022, Russia has poisoned the traditionally collegial and cooperative atmosphere of the WTO, repeatedly focusing its interventions at the WTO on blaming others for the human suffering in Ukraine and beyond Ukraine's borders, mocking Ukraine's delegation in WTO meetings, and claiming that the impact of the war, including on the food security of poor countries across the world, is not relevant to the WTO. As a result of Russia's further invasion of Ukraine in 2022, the United States has ceased all direct engagement with Russia at the WTO, and has coordinated with like-minded WTO Members to isolate Russia from the global economy and multilateral institutions.

V. Import Regulation

A. Tariffs and Border Fees

As part of its WTO accession, Russia agreed to bind all 11,170 tariff lines in its tariff schedule and as of January 1, 2020, Russia had implemented all of those bindings.⁸ Further, Russia has completed the process of joining the ITA, eliminating its tariffs on computers, semiconductors, and other information technology products consistent with its ITA obligations. As a result, Russia's simple average final bound rate for all goods is approximately 7.6 percent; 7.1 percent for industrial goods and 10.8 percent for agricultural goods.⁹ Russia's simple average applied tariff rate for all goods is approximately 6.6 percent, 6.1 percent for industrial goods and 9.7 percent for agricultural goods. Russia cannot legally apply EAEU CET tariffs above its WTO

⁸ As noted below, in 2018, Russia raised tariffs on certain industrial products in retaliation for action by the United States under Section 232 of the Trade Expansion Act of 1962, as amended.

⁹ By contrast, the comparable figures for the United States are 3.4 percent for all goods; 3.2 percent for industrial goods; and 4.8 percent for agricultural goods. In other words, Russia's commitments with respect to tariffs are significantly weaker than those made by the United States.

bound tariff rates.¹⁰ It should be noted, however, that although Russia had lowered its tariff rates, it continues to enact numerous trade barriers and import bans that prevent the United States from accessing a large share of the Russian market.

Ten years after accession, the vast majority of Russia's MFN applied rates are lower than their final bound rates.¹¹ For agricultural goods, over 47 percent of Russia's final bound tariff rates are equal to or less than 5 percent, whereas over 50 percent of Russia's MFN applied rates on agricultural products are 5 percent or less, accounting for over 50 percent of agricultural imports. With regard to industrial goods, nearly 55 percent of Russia's final bound tariff rates are equal to or less than 5 percent, whereas nearly 60 percent of Russia's MFN applied rates are equal to or less than 5 percent, accounting for over 67 percent of industrial imports.

U.S. total goods imports from Russia for the first seven months of 2022 (January-July) declined 32 percent to \$11.6 billion. Imports of mineral fuels from Russia remained the largest category, accounting for approximately 43 percent of total imports (compared to 60 percent in first seven months of 2021), but declined 50 percent from the first seven months of 2021; the next largest category of imports (accounting for approximately 10 percent) was precious stones and metals (especially platinum) and declined more than 37 percent. U.S. goods exports to Russia rose slightly in 2021 to \$6.4 billion, following a general decline since 2013 (\$11.1 billion). In the first seven months of 2022, however, U.S. goods exports to Russia decreased 65 percent to \$1.3 billion.¹² These sharp declines in both imports and exports are likely due to the imposition of sanctions and export controls by the United States.

Although Russia has implemented its scheduled bindings, and most of its MFN tariffs rates remain below its final bound rates, some concerns remain. For example, Russia has not informed WTO Members whether, for those goods subject to a combined tariff, the *ad valorem* equivalent of the specific duty is within the WTO *ad valorem* bound duty rate.

¹⁰ As a customs union, the EAEU applies a common external tariff. Russia's WTO tariff schedule commitments, for the most part, bind the entire EAEU CET, with some temporary (lower) exceptions for Kazakhstan, Armenia, and Kyrgyzstan due to existing WTO tariff commitments.

¹¹ This comparison of Russia's final bound rates and MFN applied rates is based on the WTO Tariff Profile for Russia. That profile does not reflect Russia's tariff actions following the imposition of sanctions following Russia's further invasion of Ukraine in February 2022.

¹² Export data are from the Trade Data Monitor.

Of greatest concern, however, was Russia’s decision in July 2018 to adopt tariffs ranging from 25 percent to 40 percent on various industrial products imported from the United States, in retaliation against the U.S. decision to adjust U.S. imports of steel and aluminum articles under Section 232 of the Trade Expansion Act of 1962, as amended. The United States has, over the years, urged Russia to work with the United States to address the common problem of excess capacity in the global steel and aluminum sectors, rather than engage in unjustified retaliation designed to punish American workers and companies. The United States will take all necessary actions to protect U.S. interests in the face of such retaliation. In this regard, on August 27, 2018, the United States launched dispute settlement proceedings against Russia at the WTO. Following unsuccessful consultations in November 2018, a WTO dispute panel was established on December 18, 2018 and composed on January 25, 2019. Following a delay due to the COVID-19 pandemic, the panel expects to issue its final report “no earlier than the last quarter of 2022.”

B. Customs Fees

Upon becoming a WTO Member, Russia agreed to comply with Article VIII of the GATT 1994, which requires that fees and charges imposed on or in connection with importation (other than tariffs) be limited to the approximate cost of the service provided. Russia amended its system of customs clearance fees to reduce those fees and establish fixed minimum and maximum fees for customs clearance of goods using electronic format or other simplified procedures for filing customs declarations. Russia’s implementation of these commitments is currently reflected in Article 47 of the EAEU Customs Code, which limits the amount of customs fees to the approximate cost of the service rendered. U.S. officials are not currently aware of any areas of concern with respect to Russia’s implementation of these commitments since becoming a WTO Member.

C. Customs Valuation

The WTO *Agreement on Implementation of Article VII of the GATT 1994* (“Customs Valuation Agreement” or CVA) is designed to ensure that determinations of the customs value for the application of duty rates to imported goods are conducted in a neutral and uniform manner, precluding the use of arbitrary or fictitious customs values. Adherence to the CVA is an

important issue for U.S. exporters, particularly to ensure that market access opportunities provided through tariff reductions are not negated by unwarranted and unreasonable increases in the customs value of goods to which tariffs are applied. Russia agreed to implement its obligations under the CVA, including the interpretative notes, upon accession to the WTO, without any transition period.¹³ In addition, Russia took a specific commitment in the WPR, *inter alia*, not to use reference prices or fixed valuation schedules as a means for determining customs value and to provide for the right to appeal decisions that were based on a minimum value, fixed valuation schedule, or reference price rather than on the CVA principles and methods incorporated into Russian law.¹⁴

Russia and its EAEU partners have integrated the CVA's basic provisions into the EAEU legal framework. Specifically, the hierarchy of the six methods of customs valuation in the CVA, as well as most, but not all, of the provisions of the interpretative notes, are reflected in Russia's domestic law and implemented by reference in the EAEU Customs Code. However, U.S. stakeholders report that Russia continues to lack clear regulations governing customs valuation, creating uncertainty and additional paperwork. In response to these concerns, the United States has raised questions in the WTO Committee on Customs Valuation and will, as appropriate, continue to seek clarification as to where in Russia's, or the EAEU's, legislation certain commitments of the CVA can be found. The United States will continue to meet with and solicit information from U.S. stakeholders concerning Russia's valuation practices and will work, as appropriate, with Russia's Federal Customs Service (FCS) to ensure full implementation of Russia's commitments on customs valuation.

D. Trade Facilitation

The Trade Facilitation Agreement (TFA) entered into force February 22, 2017. The TFA builds on earlier related provisions in the GATT and further expedites the movement, release, and clearance of goods, including goods in transit. It is the first WTO agreement in which WTO Members can determine their own implementation schedules and in which progress in implementation is linked explicitly to capacity. Developed countries, including Russia,

¹³ WPR, ¶514.

¹⁴ WPR, ¶527.

committed to implement the TFA immediately upon its entry into force. Russia ratified the TFA on April 22, 2016, and has implemented its commitments.

In 2019, Russia began to implement pilot programs in selected industry sectors of a mandatory labeling system (the labeling regime) that requires the application of an encrypted label to products in an ever-widening list of industry sectors. Data on the progress of a product through the chain of commerce are provided to a public-private Russian company, the Center for the Development of Advanced Technologies (CRPT), allowing it to monitor/track goods through Russia's entire distribution chain (i.e., from production/import to the final retail customer). In 2021, the Russian government continued to expand the universe of products covered by the labeling regime, even as it postponed implementation deadlines for some products (with longer deadlines sometimes granted to domestic products than to imported products); in 2022, the Russian government suspended application of the regime for some products. Stakeholders have reported that customs clearance of products subject to the mandatory labeling requirement is more complex and time-consuming; moreover, the mandatory labeling requirement diminishes the flexibility and benefits Russia had offered under its Authorized Economic Operator Status. These additional steps and costs impose particular burdens on small and medium-sized enterprises.

Even though Russia has suspended the application of the track and trace system for some products in 2022, the United States remains concerned that implementation of the regime creates additional burdens at the border, contrary to the goals of the TFA. The United States will continue to monitor the impact of the regime on U.S. exports, and, as appropriate, raise concerns with Russia.

E. Trading Rights

The right to import and export (*e.g.*, to declare goods at the border for import and meet relevant requirements, such as payment of any customs duties, SPS measures, technical standards, and intellectual property rights protection) without having to invest in the importing country or employ a customs broker to facilitate market access is critically important, especially for small- and medium-sized enterprises that may not be able to afford to establish an office in each market or that, for commercial reasons, need to be the importer of record for the goods. In 1991, Russia

eliminated its state monopoly on foreign trade.¹⁵ However, prior to its WTO accession, Russia had not only limited the right to import and export goods to Russian enterprises, but it also required an “activity license” to engage in the business of importing or exporting (in addition to requiring import licenses on select products). As part of its WTO accession commitments, Russia eliminated the requirement for an activity license to import and export goods. Following Russia’s accession, the only requirement to engage in the business of importing and exporting is registration with the appropriate authorities in Russia, and Russia has committed to employing an expeditious and transparent registration policy.¹⁶

Russia still requires an activity license as a precondition for obtaining an import license for some products (*e.g.*, alcohol, encryption products, and pharmaceuticals). However, pursuant to Russia’s WTO commitments, the importer of record (declarant) is permitted to pay the relevant customs duties, fees and charges in connection with the importation of the goods, and meet other import requirements, without presenting this license. The person withdrawing the goods from the customs checkpoint for distribution in Russia is now responsible for presenting the requisite import or activity license.

As described above, Russia has begun to introduce its labeling regime in stages by industry sector or product category, with the ultimate goal of bringing all products into the labeling regime sometime in the future. In addition to the concern that the regime could introduce new barriers at Customs, the United States is concerned that the process appears to provide better access to the labels to companies that have a Russian legal presence (such as domestic producers and some importers with a local presence) than companies that do not have a presence in Russia (such as small- and medium-sized U.S. exporters). The United States will continue to investigate whether this seemingly disparate treatment is consistent with Russia’s commitments under the WTO.

F. Quantitative Import Restrictions

Article I of the GATT 1994 requires that WTO Members accord MFN treatment to imports from all other WTO Members. In addition, Article XI of the GATT 1994 generally prohibits the

¹⁵ WPR, ¶216.

¹⁶ WPR, ¶227.

imposition of restrictions or prohibitions (other than tariffs, taxes, or other charges) on imports, except if justified under an applicable WTO provision. Notwithstanding these obligations, on August 6, 2014, Russia issued an order banning most agricultural imports from the United States, the European Union (EU), Canada, Australia, and Norway for one year. The list of banned foods included certain beef, pork, poultry, fish and seafood products; fruits and nuts; vegetables; some sausages; and most prepared foods. Russia has extended the import ban every year since 2014, and in 2015 amended the list of products covered by the ban and expanded the list of countries for which products were banned, adding Ukraine, Albania, Montenegro, Iceland, and Liechtenstein. In October 2022, Russia extended the ban until December 31, 2023; no changes were made to the list of covered products.

G. Import Licensing

The *Agreement on Import Licensing Procedures* (Import Licensing Agreement) establishes rules for all WTO Members that use import licensing procedures requiring the submission of an application or other documentation (other than that required for customs purposes) to the relevant administrative body as a prior condition for importation into the customs territory of the importing Member. The Import Licensing Agreement serves to ensure that the procedures used by Members in operating their import licensing systems do not, in themselves, form barriers to trade. Two important objectives of the Import Licensing Agreement are to increase transparency and predictability with respect to import licensing procedures and to establish disciplines to protect against unreasonable requirements or delays associated with such procedures.

To implement the rules of the Import Licensing Agreement, Russia amended aspects of its import licensing regime to liberalize and simplify the process of importing certain products subject to import control.¹⁷ For example, Russia agreed to eliminate the non-automatic import license requirement for sugar. In addition, when Russia became a WTO Member, it eliminated its non-automatic import licensing requirements for spirits and alcohol products and replaced them with an automatic licensing requirement.¹⁸ Industry stakeholders have informed USTR that Russia has simplified its licensing regimes in many, but not all, areas.

¹⁷ See WPR, ¶¶456-457.

¹⁸ WPR, ¶460.

Russia also agreed to liberalize its import licensing regime for products with cryptographic capabilities (encryption products), reducing the government’s control over such imports, depending on the strength of the encryption.¹⁹ Russia further agreed to review its import licensing regime in consultation with interested WTO Members with an eye toward loosening further its import licensing regime for encryption products.²⁰ In practice, however, Russia’s security service continues to exert strict control over the importation of encryption products. U.S. stakeholders report that Russia is not allowing the importation of “mass market” consumer electronic products with only a one-time notification or without “customs formalities related to encryption”, and that licensing applications are met with a slow response or no response at all. Moreover, Russia has not updated its import licensing regime to reflect amendments to Category 5, Part 2 “Information Security” of the Wassenaar Arrangement which released numerous encryption products and functionalities from control.²¹ Prior to Russia’s further invasion of Ukraine in 2022, the United States had proposed opening discussions on reviewing the import licensing regime for encryption products, but the government of Russia has failed to respond to repeated outreach. We will continue to press the government of Russia, as appropriate, for these discussions and liberalization of its import licensing regime for encryption products, consistent with Russia’s WTO commitments.

H. Trade Remedies

Binding tariffs and applying them equally to all trading partners are key WTO requirements that contribute to the efficient flow of trade in goods. The WTO Agreement, however, permits Members to refrain from applying these requirements in certain limited circumstances, including trade remedy measures. As a member of the EAEU, Russia transferred responsibility for administering its trade remedy laws to the EEC. Importantly, Russia committed that any trade remedy investigation or measure would be consistent with its WTO commitments regardless of whether the investigation had been commenced by, or the measure had been put in place by, Russia’s investigating authority or the EAEU investigating authority.²²

¹⁹ See WPR, ¶¶471-486.

²⁰ WPR ¶¶478 and 483.

²¹ See WPR, ¶475.

²² WPR, ¶620.

When Russia joined the WTO, it notified its trade remedy laws and procedures (and those of the CU) as required under the transparency provisions of the relevant WTO Agreements and the WPR. It also provided notifications concerning the safeguard investigations that were in process when it joined the WTO and those initiated after it joined the WTO. U.S. officials are not currently aware of any areas of concern with respect to Russia's implementation of its commitments with regard to trade remedies.

VI. Export Regulation

When it acceded to the WTO, Russia agreed to reduce or eliminate export duties on a large number of products, including ferrous scrap and copper cathode, and bound the tariff levels of the remaining products on which it applied export tariffs. Russia also committed to adhere to Article XI of the GATT 1994, which generally prohibits WTO Members from maintaining export restrictions (other than duties, taxes, or other charges) except those that can be justified under applicable WTO provisions.²³ Consistent with that commitment and the relevant EAEU agreements, Russia eliminated an export ban on grain imposed in 2010. Russia also confirmed that any export restraints imposed to ensure essential materials to domestic producers would not operate to increase the exports or the protection of that processing industry.²⁴

Prior to WTO accession, Russia amended its national regulations to replace the export licensing regime for precious stones, diamonds, and metals with an automatic licensing regime in order to reduce the number of goods subject to export licensing and to remove export bans and other quantitative restrictions on the export of certain types of goods. In addition, Russia eliminated restrictions on the export of raw materials for pharmaceuticals and reduced the number of pharmaceuticals subject to export licensing.²⁵ Also, consistent with the commitments on ferrous scrap and copper cathode described in the WPR, Russia reduced its export duties on those products as provided in its tariff schedule (but has since raised some export duties, as discussed below.)²⁶

²³ WPR, ¶646.

²⁴ WPR, ¶668.

²⁵ WPR, ¶¶648-655.

²⁶ WPR, Schedule CLXV, Part V.

Reversing those initial liberalizing moves, in 2022, Russia began to impose various export restrictions on a wide variety of products. For example, in March 2022, Russia imposed a temporary ban on exports of over 200 industrial products, including technological, communication and medical equipment, vehicles, agricultural machinery, and electrical equipment.²⁷ Notwithstanding the global food security crisis, Russia imposes temporary export restrictions (e.g., export bans, export quotas, or export duties) on sunflower seeds, soybeans, white sugar, raw cane sugar, rice and rice cereal, rapeseed, millet, buckwheat, meslin, crude flour, barley, rye, corn, onions, garlic, turnips, sunflower oil and bagasse, fish products, fertilizer and fertilizer inputs, as well as on non-agricultural products such as certain types of lumber (including logs), ferrous waste and scrap, stainless scrap and waste, waste and scrap of other alloy steel, and waste and scrap of tungsten.

During Russia's WTO accession negotiations, the United States raised concerns about the conformity of Russia's and the EAEU's export licensing provisions with WTO disciplines, and Russia recognized that work needed to be done in this area.²⁸ For example, Russia maintains, and regularly updates, a list of products "of utmost importance for the domestic market" the export of which could be subjected to export restrictions or prohibitions. Although not all listed products are subject to export controls, Russia has, for example, banned the export of raw hides intermittently since 2014 in order to protect its leather processing industry. In 2017, Russia expanded the list of "important" products, including ferrous steel and non-ferrous scrap, which have now been made subject to export restrictions. Because steel and non-ferrous metals are global commodities, even short-term restrictions can distort trade flows.

As noted above, Russia has implemented temporary export restrictions on a wide variety of food products. In addition to the potential market distortions caused by these export measures, the United States is concerned that Russia has failed to notify the WTO of these and other measures, as it committed to do under the Agreement on Agriculture.

The United States has, in years prior to 2022, worked with other WTO Members to question Russia's use of export controls, in particular their consistency with Russia's WTO commitments.

²⁷ That list was later narrowed to 100 products.

²⁸ See WPR, ¶¶665 and 666.

The United States will continue to scrutinize the evolution and implementation of the Russian and EAEU export regulatory regime, and, where appropriate, raise concerns with Russia.

VII. Agriculture

Upon its accession to the WTO, Russia assumed the obligations of the *WTO Agreement on the Application of Sanitary and Phytosanitary Measures* (SPS Agreement), as well as the *WTO Agreement on Agriculture*, which contains commitments in three main policy areas for agricultural products: market access, domestic support, and export subsidies. Russia also made a number of additional agriculture-related concessions on its level of financial support for agricultural production, as specified in the WPR.

A. Sanitary and Phytosanitary Measures

The SPS Agreement establishes disciplines regarding the formulation, adoption, and application of SPS measures, *i.e.*, measures taken to protect against risks associated with plant- or animal-borne pests and diseases, additives, contaminants, toxins, and disease-causing organisms in foods, beverages, or feedstuffs. The SPS Agreement requires, *inter alia*, that SPS measures are applied only to the extent necessary to protect human, animal or plant health; do not arbitrarily or unjustifiably discriminate between WTO Members' agricultural and food products; and are not disguised restrictions on international trade. The SPS Agreement further requires that SPS measures be based on scientific principles and evidence and on relevant international standards or appropriate assessments of risk. At the same time, the SPS Agreement preserves each Member's right to choose the level of protection it considers appropriate with regard to sanitary and phytosanitary risks.

According to the WPR, Russia assumed each of these obligations together with the other obligations of the SPS Agreement as part of its accession. Moreover, Russia explicitly committed to the Working Party that it would ensure that all of its SPS measures, whether adopted by it or the competent bodies of the CU (now EAEU), would be based on international standards, guidelines, and recommendations unless a more stringent measure is justified by a risk assessment. Russia further explicitly committed that measures which were not based on international standards, guidelines, or recommendations would not be applied in Russia without providing Members a scientifically based justification of the measures, in accordance with the

SPS Agreement.²⁹ Russia also confirmed that all SPS measures, whether adopted by Russia or by the competent bodies of the CU (now EAEU), would comply with the non-discrimination provisions of the SPS Agreement.³⁰ SPS measures would not, Russia agreed, be used in such a way as to constitute a disguised restriction on international trade.

Russia, in addition, undertook the following specific obligations reflected in the WPR: to negotiate and sign veterinary certificates that comply with World Organization for Animal Health (WOAH, formerly OIE) requirements for Bovine Spongiform Encephalopathy attestations; to base its requirements for goods subject to veterinary control on international standards; to ensure that its measures do not discriminate between imports from WTO Members or between Russia's products and imports; to accept international standards regarding certain antibiotic residues or justify more stringent requirements with a risk assessment that conforms to international standards; and to ensure that any actions that are taken by Russian or EAEU authorities in response to non-compliance by importers with Russian or EAEU requirements are proportional to the non-compliance.³¹

At the time of its accession, Russia confirmed the criteria for “de-listing” or “temporarily suspending” an establishment (an action which has the effect of prohibiting imports from that establishment) and committed to notify the exporting WTO Member and give that exporting Member time to propose corrective measures. With regard to emergency measures, Russia confirmed that its decisions and procedures for de-listing or temporarily suspending an approved establishment would be in accordance with the SPS Agreement. Russia further confirmed that, by the time of accession, specific inspection guidelines would be developed that reflected the principles of equivalence and that were based on international standards, guidelines, and recommendations. Russia also agreed to remove certain veterinary control measures, such as the requirement that establishments (*e.g.*, processing plants or storage facilities) be approved in order to export selected products to Russia, and confirmed that veterinary control measures applied to animal products would be modified only in accordance with the SPS Agreement.³²

²⁹ WPR, ¶1009.

³⁰ WPR, ¶1033.

³¹ WPR, ¶¶ 895, 901, 926, 1009, 1033, and 1062.

³² WPR, ¶¶923, 926, 927, 932, and 908.

To ensure compliance with WTO rules on transparency, Russia confirmed that all Russian normative legal acts relating to SPS measures would be published in Russia's two official journals and that EEC Decisions and other EAEU legal acts relating to SPS measures would be published on the EEC website. Russia further committed that drafts of SPS technical regulations and other mandatory requirements would be made publicly available for comment and that interested persons would have at least 60 days to provide comments on the drafts. Finally, Russia has established an SPS inquiry point and a website with detailed conditions for the importation of specific products.³³

Because Russia transferred authority over many SPS matters to the EAEU, most of the measures necessary to implement Russia's WTO SPS commitments must be adopted at the EAEU level. However, Russia's national SPS measures continue to apply to the extent that they do not conflict with EAEU measures.

In order to assure WTO Members that Russia would implement its commitments regarding harmonization with international standards, recommendations, and guidelines, Russia and the EAEU amended existing legislation and adopted new measures. The EAEU adopted decisions that committed Russia to three key principles: in the absence of EAEU or Russian requirements, the relevant international standards would apply; if there are stricter EAEU or Russian requirements that lack scientific justification, the international standards would apply; and lastly, that Russia or the EAEU would align its standards with the relevant international standards or provide a scientific justification following a request from an interested party, including foreign governments. In addition, Russia established a process for reviewing SPS measures that interested parties believe are inconsistent with international standards. Through this process, interested persons can request that specific SPS measures that are inconsistent with international standards be brought into conformity with the relevant international standard.

By 2011, the EAEU had established common veterinary requirements and 40 common forms of veterinary certificates for imports into the EAEU from any third country. During Russia's accession negotiations, the United States and other Members expressed concern that many of the common veterinary requirements appeared to be more stringent than the relevant international

³³ WPR, ¶¶1051 and 1055.

standards and did not allow the conditions in an exporting country to be taken into account. To allow exporting countries the opportunity to address these concerns with regard to some of the requirements in the pre-existing common veterinary certificates, the EEC extended the validity of bilateral veterinary certificates and provided Russian officials with the authority to negotiate certificates with exporting countries with terms that differ from EAEU common requirements. In addition, the EEC confirmed the EAEU member states' right to amend the EAEU certificates and requirements to reflect international standards established by the WOH and Codex Alimentarius (Codex), allowing the United States to negotiate certificates with the EAEU member states that may differ from the EAEU common form, and which better reflect the conditions of trade between the United States and Russia.³⁴

To implement Russia's commitments with regard to inspections, the EEC established the basis for joint inspections, systems audits, and acceptance of an exporting country's guarantees. In addition, the EEC adopted inspection guidelines for meat processing and storage establishments, fish and fish products, and dairy and dairy products in accordance with the relevant international standards and confirmed that it would not suspend imports from establishments based on the results of on-site inspections before it had given the exporting country the opportunity to propose corrective measures. To implement Articles 4 and 5 of the SPS Agreement concerning equivalence and risk assessment, respectively, the EEC established the basis for determining equivalence and conducting risk assessments in accordance with international standards.³⁵ The United States, other WTO Members, and U.S. industry stakeholders have expressed concern about the veterinary requirements adopted by the EEC, which included a requirement that all veterinary controlled products come from an establishment approved by all EAEU member states.

As noted above, Russia has banned the importation of most food and agricultural products from the United States. Nevertheless, the United States has continued to track and, as appropriate, raise concerns about Russia's implementation of its SPS commitments. For example, Russia does not appear to have implemented fully its commitments to base measures on international standards, or, where it applies a more stringent standard, to provide a science-based, objective

³⁴ WPR, ¶¶893 and 890.

³⁵ See, WPR, ¶¶1022-1031.

risk assessment. Moreover, in those cases where Russia has provided the United States with a risk assessment purporting to justify its SPS measures (e.g., Russia's zero tolerance for both ractopamine and trenbolone acetate and near zero tolerance for tetracycline residues), there are concerns that those assessments do not appear to have been conducted taking into account risk assessment techniques of relevant international organizations. Russia also maintains non-science-based microbial standards, such as a zero tolerance for salmonella, and requires that imports be tested in Russia (rather than in the United States prior to export). Russia's testing standards, however, are not clearly defined. The United States raised these concerns directly with Russia prior to 2014 but has not received a constructive response. Despite requests to Russia from the United States for adequate risk assessments based on Codex guidelines, none have been forthcoming. Of particular concern to industry stakeholders, Russia is pushing the use of EAEU-wide harmonized veterinary certificates and a unified list of eligible facilities – all of which are based on Russian standards and criteria.

The United States is also concerned about various Russian measures that, but for the general ban on imports of food and agricultural products, could disrupt or prohibit imports of specific U.S. agricultural products, including poultry products. For example, since 2015, Russia has imposed various bans on both the importation and transit of certain poultry and poultry products into and through Russian territory. In January 2019, Russia lifted its transit ban for poultry shipments transiting Russia to Kazakhstan, but left in place traceability requirements (the Mercury Notification system) applicable to shipments of certain U.S. animal-based products transiting Russia. Russia has not, however, provided the WTO with a risk- or science-based justification for the Mercury Notification system.

In 2021, Russia banned imports of U.S. animal feeds, feed additives, and pet food alleging detection of unregistered and unapproved biotechnology traits in shipments from U.S. industry. This ban appears to be based on an unnotified technical regulation that establishes lengthy procedures for registration and approval of new and previously approved biotechnology traits. The United States will continue, as appropriate, to request notification of this technical regulation and technical discussions with Russian competent authorities regarding the ban on the import of U.S. animal feeds and feed additives.

Another practice that has raised WTO concerns is Russia's reluctance to accept an exporting country's guarantees concerning the process for approving establishments as eligible to export to Russia. Notwithstanding Russia's commitments regarding inspections and establishment approvals described above, securing acceptance by Russia of U.S. guarantees concerning U.S. procedures for approving establishments has become very difficult. Since July 2014, Russia has required, without providing any scientific justification, an on-site inspection of each establishment by the EAEU member states' veterinary services before approval is granted.

The United States remains concerned with Russia's apparent failure to implement its obligation to remove certain veterinary control measures for lower risk products. In 2011, the EEC adopted a decision removing such veterinary control measures. However, days before Russia became a WTO Member, Russia's veterinary service imposed a so-called "temporary" measure to maintain the establishment listing requirement for lower risk products imported into Russia until after a successful audit has been completed. Despite strong objections by the United States and other WTO Members, both in the WTO and bilaterally prior to 2014, Russia has refused to withdraw this listing requirement. Moreover, industry representatives assert that the onerous mandatory audits suggest that Russia is using the listing requirement to create a non-tariff barrier to trade.

Russia also agreed that, in order to meet its WTO commitments, it would negotiate veterinary certificates with the United States (or any other WTO Member) that differ from EAEU certificates after receiving substantiated requests from the United States (or other WTO Member). However, Russia insisted on including attestations in the new proposed certificates that do not appear to be based on the relevant international standards and have offered no risk assessment in support of the alternative attestations, notwithstanding Russia's WTO commitments to conform its attestations to such standards unless a more stringent measure is justified through risk assessment.³⁶ USTR and the U.S. Department of Agriculture will continue, as appropriate, to request technical level meetings with Russian counterparts in an effort to negotiate new certificates.

As explained above, since 2014, the United States' bilateral work with Russia on agricultural trade issues has been limited due to Russia's actions in Ukraine. Moreover, as previously noted,

³⁶ See, WPR, ¶1009.

since Russia's further invasion of Ukraine in 2022, the United States has refused to engage directly with Russia at the WTO. Nevertheless, the U.S. Government will continue to meet and consult with industry stakeholders to discuss their concerns and strategies to remove these trade barriers.

B. Domestic Supports and Export Subsidies

When Russia joined the WTO, it was still restructuring its agriculture sector to recover from decades of central planning and an imbalance in prices and revenue. To support development and employment in the rural territories, and to encourage agricultural production, Russia had in place numerous subsidy programs. As part of its WTO accession, Russia agreed to a limit on trade-distorting domestic support, referred to as the Aggregate Measurement of Support or AMS, of \$4.4 billion, down from \$9 billion in 2013. Russia's most recent domestic support notification to the WTO Committee on Agriculture for the calendar year 2020 reported an AMS of only \$89.5 million in agricultural support payments. Russia also accepted an obligation to ensure that the sum of all product-specific support does not exceed 30 percent of the non-product specific support. Finally, Russia agreed to not provide export subsidies. Russia notified the WTO that it has met both these obligations.

Notwithstanding that commitment, Russia has introduced programs that allow for export subsidies to promote agricultural exports and for transportation subsidies contingent on exports, as well as other export measures that can distort market prices. For example, Russia has amended its Budget Code to allow for subsidies for alcoholic products intended for export and has issued a decree to provide subsidies that compensate organizations for their costs associated with seeking certification of agriculture products in foreign markets. As noted above, Russia has also introduced export restrictions or duties on a variety of grains. In addition, Russia approved a long-term grain industry development strategy to strengthen its position as a global grain market producer and supplier and adjusted its support program (administered by the Russian Export Center, a State supported export institution established in 2015 to encourage exports) for the transportation of agriculture and foods products.

In the WTO Committee on Agriculture, the United States reviews closely Russia's notifications on its domestic agricultural programs and carefully monitors government programs that support

agriculture to ensure that Russia is transparent and meeting its WTO domestic support and export subsidy commitments. In addition, the United States has reviewed various agricultural support measures that have not been notified, and, as appropriate, raises concerns about those measures and reminds Russia of its transparency obligations. Further, the United States, prior to February 2022, repeatedly raised concerns about Russia's subsidization of railway freight to compensate for part of the cost of transporting grains and various food and agricultural products to ports of potential export to anywhere in the world and reminded Russia of its obligation to notify market price supports. The United States will continue to track Russia's support for the agriculture sector to ensure transparency and consistency with WTO obligations.

VIII. Internal Policies Affecting Trade

A. Non-Discrimination

According to the WPR, Russia agreed to assume the obligations of the GATT 1994, the WTO agreement that establishes the core disciplines that constrain and guide WTO Members' policies relating to trade in goods. Two core disciplines of the GATT 1994 are the Most-Favored Nation (MFN) treatment – referred to in certain U.S. legislation as “normal trade relations” – and national treatment. The *General Agreement on Trade in Services* (GATS) contains parallel MFN and national treatment obligations with respect to services.

The MFN rule for goods (Article I of the GATT 1994) prohibits a Member from discriminating against imported goods of one trading partner in favor of the imported goods of another trading partner. Accordingly, if a WTO Member grants one WTO Member's goods a benefit or advantage, it must immediately and unconditionally grant the same benefit or advantage to like goods imported from all WTO Members. This rule applies to customs duties and charges of any kind imposed in connection with importation and exportation, as well as to internal taxes and charges, and other internal measures. Article II of the GATS establishes a comparable MFN obligation with respect to services and supplier of other WTO Members.

The national treatment rule with respect to goods (Article III of the GATT 1994) complements the MFN rule. It prohibits discrimination against imported goods vis-à-vis the importing Member's own goods. Generally, a WTO Member may not subject imported goods from another WTO Member to internal taxes or charges in excess of those applied to like domestic

goods. Similarly, with regard to measures affecting the internal sale, offering for sale, purchase, transportation, distribution, or use of goods, a WTO Member may not treat imported goods less favorably than like domestic goods. The national treatment rule applies in a similar manner to services under Article XVII of the GATS. This provision requires a WTO Member, in sectors in which it has taken commitments in its schedule, to accord no less favorable treatment to services and service suppliers of other WTO Members than it accords to its own like services and service suppliers.

The WPR elaborates on Russia's commitment to apply both Articles I and III of the GATT 1994, as well as Articles II and XVII of the GATS. Throughout the nineteen years of accession negotiations, Russia reviewed its laws and regulations and made an effort to revise those that conflicted with its WTO MFN and national treatment obligations, *e.g.*, measures governing prices charged for railway transport, application of internal taxes, subsidies for new automobiles, and the right to import and export. In addition, Russia, in conjunction with its EAEU partners, reviewed the EAEU agreements, regulations, and decisions to ensure their conformity with the MFN and national treatment provisions of the WTO Agreement.

However, since Russia's WTO accession, national treatment concerns have been raised in connection with a number of Russian measures and policies. Although Russia amended its "recycling" fee" (also known as a "utilization fee") on motor vehicles in response to concerns about its discriminatory application (by removing the exemption for motor vehicles manufactured in the EAEU), the fee applies to a variety of motor vehicles, including automobiles, agricultural and forestry machinery, and certain construction equipment. Moreover, Russia has consistently increased the recycling fee, most recently in 2021 by as high as 400 percent on some equipment. U.S. stakeholders contend that although the recycling fee appears non-discriminatory because both importers and domestic producers must pay it, in fact, treatment is not equal because Russia provides subsidies that effectively reimburse domestic producers (except foreign-owned producers) for having to pay the recycling fee. In 2019, the Russian government revised its automobile recycling fee program to encourage domestic manufacturing. Under the revised program, automobile manufacturers accumulate points based on the level of localization – the greater the localization, the higher the number of points and the

higher the level of recycling fee compensation paid to local manufacturers from the federal budget.

Russia also appears to protect its domestic automotive industry through the application of a variable excise tax on automobiles based on their engine size. For example, in 2021, cars with engine power below 150 horsepower (hp) (e.g., a Lada, as well as some models of Fiats, Mini Coopers and older Fords) paid an excise tax of 51 rubles (approximately US\$ 0.015) per hp. For cars with engine power above 150 hp, the excise tax rate jumped to between 491 rubles (approximately US\$ 6.64) per hp to 1,464 rubles (approximately US\$ 19.78) per hp. Those rates translate to a maximum tax of approximately 7,500 rubles (approximately US\$ 101.35) for a car with less than 150 hp, and between 53,000 rubles (approximately US\$ 716.21) for a car with 151 hp to 733,000 rubles (approximately US\$ 9,905.40) for a car with over 500 hp (e.g., certain models of Cadillacs, Ford Mustangs, Jaguars, Alfa Romeos or Mercedes Benz). In its 2022 WTO Trade Policy Review, Russia acknowledged that it does not produce passenger cars with engine power over 300hp. The United States will, as appropriate, raise concerns about the seemingly discriminatory automotive excise tax rates.

Russia also continues to treat domestic software more favorably than foreign software. In addition to the various mandates for Russian government entities, state-owned companies and critical infrastructure (CII) facilities to purchase domestic software, the Russian Tax Code exempts royalties paid on domestic software from VAT and applies a lower corporate tax rate and social security contribution rate to domestic technology firms. According to U.S. stakeholders, these differential tax rates change the conditions of competition and discriminate against the imports used by foreign owned technology firms and against foreign service suppliers.

Similarly, Russia's copyright levy system continues to raise national treatment concerns. Russia collects a levy on both domestically produced and imported products that can be used to reproduce copyrighted material for personal use (e.g., video recorders, voice-recorders, photocopy machines). However, the list of domestically produced products on which the levies are paid appears to differ from the list of imported products on which the levies are paid. In addition, the reporting and payment systems appear to differ. The FCS provides information on imports to the Ministry of Culture, which in turn provides the information to the collecting

society to verify the payment of the levies, whereas domestic manufacturers pay royalties based on sales and self-notify. U.S. officials have reviewed Russia's copyright levy regime and discussed with industry representatives. USTR's WTO delegate raised this issue with Russia's WTO delegate prior to Russia's further invasion of Ukraine in 2022, but received no response. USTR will, as appropriate, continue to press Russia to respond to our concerns, and to eliminate any discriminatory practices.

The United States also has concerns regarding national treatment with regard to taxation of distribution services on motion pictures. Russia applies a 20 percent VAT on payments for the "right to use" (*i.e.*, payments for distribution services) cinema products. However, the recipient of the payment can apply for a VAT rebate if the cinema product is "Russian." A "Russian" cinema product is defined as a movie in which the producer is Russian; a majority of authors are Russian residents; at least 30 percent of the cast and crew are Russian residents; the movie is in the Russian language; at least 50 percent of the movie is financed by Russian residents; or the movie is produced under special international agreements. In other words, the VAT collected on payments for the "right to use" a "Russian" movie (as defined in the Russian Tax Code) can be reimbursed whereas the VAT collected on payments for the "right to use" a U.S. or other non-Russian movie cannot be reimbursed. This discriminatory tax regime raises concerns about Russia's implementation of its national treatment commitments. USTR has reviewed information provided by U.S. stakeholders and studied the relevant Russian laws and regulations. With this information in hand, USTR's WTO delegate attempted (prior to Russia's further invasion of Ukraine in 2022) to initiate a discussion with Russia's WTO delegate but Russia has refused to respond. USTR will, as appropriate, continue to press Russia for a satisfactory resolution of the seemingly discriminatory tax regime.

The United States will continue to consult with U.S. stakeholders affected by these programs to evaluate their impact on U.S. exports. Moreover, USTR will scrutinize the implementation of each of these measures and the introduction of any new measures that appear to promote domestic products at the expense of U.S. exports and, as appropriate, press Russia to comply with its WTO commitments and not discriminate against U.S. exports.

B. Industrial Policy, Including Subsidies

Upon its accession to the WTO, Russia assumed obligations under the *WTO Agreement on Subsidies and Countervailing Measures* (SCM Agreement), which addresses the use of subsidies and countervailing duty measures by WTO Members. According to the WPR, Russia committed that it would eliminate, by the time of its accession, all subsidy programs prohibited under Article 3 of the SCM Agreement, *i.e.*, subsidies contingent on export performance (export subsidies) and subsidies contingent on the use of domestic goods over imported goods (import substitution subsidies).³⁷ In addition, Russia took a specific commitment to extend subsidies for the purchase or lease of aircraft to include the purchase or lease of foreign-made aircraft that had previously been available only for the purchase or lease of Russian-made aircraft.³⁸

With regard to its transparency commitments, both during its accession negotiations and as a Member, Russia has provided subsidy notifications to the WTO Committee on Subsidies and Countervailing Measures (Subsidies Committee). Until Russia's further invasion of Ukraine in February, 2022, the United States had pressed Russia to provide complete information about its subsidy programs, particularly those that appear to be prohibited export subsidies. The United States continues to assess Russia's compliance with its commitments under the SCM Agreement to ensure full transparency.

During Russia's WTO accession negotiations, Members raised concerns about certain subsidy programs related to automobiles, civil aircraft, and agricultural equipment. Since then, Russia has eliminated some support programs for its automotive and civil aircraft industries, but introduced numerous other programs. In 2021, Russia introduced a variety of subsidies, including subsidies to reimburse high-tech exporters for part of the costs associated with after-sales services for their exported products and for costs associated with homologation of products for foreign markets and R&D expenses; subsidized interest rates on loans to Russian companies with export-oriented production facilities in Russia; subsidies to Russian agricultural engineering entities for certain export cost; subsidies to ROSEXIMBANK to compensate for lost income on loans issued to finance projects that promote the export of high-tech products;

³⁷ WPR, ¶698.

³⁸ WPR, ¶1200.

and transportation subsidies for Moscow-based small and medium-sized enterprises that export products and/or services to foreign markets. In 2022, Russia introduced subsidies to cover between 20 and 35 percent of the purchase price of domestically manufactured cars built by Russian manufacturers (i.e., excluding cars built in Russia by foreign car manufacturers.) In addition, according to U.S. stakeholders, Russia subsidizes the leasing of domestically produced agricultural and construction equipment, the mining and processing of titanium, the launch and sale of medicines, the costs to obtain foreign patents for Russian inventions, the payment by local manufacturers of the “utilization fee” (see above), the purchase of domestically produced telecommunications equipment, and the production of an array of industrial products (e.g., automotive, forestry, metallurgical, oil/gas, pharmaceutical, and machine tool products) if the manufacturers sign a “Special Investment Contract” and use domestically produced inputs. Stakeholders have further noted that through the Corporate Competitiveness Program (CCP), administered by the Russian Export Center, the Russian government subsidizes bank loans for exports that meet certain performance-based criteria (such as individual export targets). CCP contracts have been signed with companies in the automotive, pharmaceutical, railway, chemical, timber, agricultural, and metallurgical industries. In another effort to increase exports, Russia amended its Budget Code to permit subsidies for wine and other alcoholic products intended for export. USTR will monitor Russia’s implementation of this provision to ensure any subsidies are consistent with the WTO rules and, as appropriate, raise concerns with Russia.

In addition to subsidizing exports, the Russian government has in place a growing number of initiatives aimed at supporting various domestic industries to implement its import substitution policies. For example, Russia has in place a State Program “Development of Industry and Increasing Competitiveness” under which it adopted the “Strategic Plan for Promoting Import Substitution in Industry” in 2014. Since then, the Russian government has adopted numerous Action Plans for import substitution in diverse industry sectors, including in heavy engineering, non-ferrous metallurgy, ferrous metals, oil and gas engineering, shipbuilding, and chemicals.

In 2020, the Russian government identified the IT sector as a priority sector, with a focus on digital transformation of the economy. In 2021, Russia adopted an IT development framework which proposed 62 measures to support the domestic IT sector, including fiscal and tax

incentives to manufacture hardware and develop software in Russia and purchase domestic hardware and software, as well as restrictions on the use of foreign hardware and software by certain entities. These new measures supplement long-standing local content requirements, domestic purchasing quotas, and import bans imposed by Russia as part of its broad-based import substitution strategy. In 2022, Russia introduced new measures to support high tech exports as well as the radio-electronic industry, some of which may run afoul of Russia's WTO commitments. The United States will, as appropriate, seek clarification from Russia as to the WTO consistency of these programs.

The United States will continue to meet with interested U.S. exporters as well as other adversely affected producers to discuss the implementation and operation of these programs. In addition, USTR will review carefully Russia's next subsidy notification. The United States will not hesitate to take appropriate action in the WTO if it determines that Russia has failed to meet its transparency obligations or is providing WTO-inconsistent subsidies to its manufacturers.

C. State-Owned, -Controlled, and -Trading Enterprises

In addition to the disciplines in the WTO Agreement on the activities of state-owned and state-controlled enterprises (SOEs) and state-trading enterprises (STEs), Russia agreed in the WPR to additional disciplines. In particular, Russia agreed that SOEs, when engaged in commercial activity, would make purchases that were not intended for governmental use and sales in international trade in a manner consistent with the WTO Agreement.³⁹ Such enterprises would make purchases and sales of goods and services in accordance with commercial considerations, such as price, quality, marketability, and availability, and afford enterprises of other WTO Members the opportunity to compete for participation in such purchases and sales. These commitments covered all goods, as well as services for which Russia has taken commitments in its services schedule, taking into account the limitations set out in its services schedule, the rights and obligations of Russia under the GATS, and the regulatory measures of Russia otherwise covered by the WTO Agreement.

As confirmed in the WPR, Russia has many SOEs that operate in the commercial sphere. Prior to becoming a WTO Member, Russia took various steps to eliminate special privileges for most

³⁹ WPR, ¶99.

of those companies. U.S. stakeholders assert, however, that the government of Russia continues to protect SOEs in certain industry sectors (e.g., uranium) through price controls, price preferences, and the absence of a profit motive. Since Russia's WTO accession, U.S. government officials have studied the expansion of Russia's broad state-owned sector; in 2021, the Department of Commerce found that the Russian government's ownership or control over the economy was between 33 and 50 percent.⁴⁰

It is evident that, over the past several years, Russia has imposed a growing number of import substitution requirements on SOEs. For example, the Russian government has assumed the authority to establish procurement plans for SOEs and tender rules for SOEs procurement of specific goods, works, and services. Russia established the Government Import Substitution Commission with the responsibility for approving procurement of machinery and equipment for large investment projects by SOEs, state corporations, or certain private businesses, as well as foreign procurement of certain industrial products. Moving to support specific industries, the government has banned certain companies in which the government owns more than 50 percent of the shares from purchasing imported automobiles, metal products, and heavy machinery; banned SOEs from purchasing imported software and machinery; and restricted to domestic manufacturers the procurement of various types of equipment used by SOEs for projects co-funded or guaranteed by government funds unless a waiver was obtained from the Government Commission on Import Substitution. Moreover, Russia applies to government entities and some SOEs a 15-30 percent price preference for numerous goods of Russian origin and to works and services performed and rendered by Russian entities. In addition, Russia imposes on SOEs compulsory quotas for the procurement of Russian goods ranging from 40 percent to 90 percent.

In response to Russia's continued reliance on policies directing the purchase of Russian-made goods and services, especially with regard to SOEs, USTR has met with and discussed the impact and ramifications of these policies with a broad array of U.S. stakeholders, foreign government officials, and other experts. The United States, in conjunction with other interested WTO Members, has repeatedly raised questions in the WTO Committee on Trade Related Investment Measures (TRIMS Committee) about the consistency of these programs with

⁴⁰ U.S. Department of Commerce, *Review of Russia's Status as a Market Economy Country*, October 29, 2021.

Russia's WTO commitments and sought additional information. In fact, prior to Russia's further invasion of Ukraine in 2022, the United States had submitted numerous sets of written questions about these programs dating back to 2016, but Russia has responded to only the first set of questions. The United States will continue to scrutinize and analyze the adoption and operation of these measures to ensure that Russia implements its WTO commitments and does not discriminate against U.S. exports, and, as appropriate, to press Russia for written answers to our questions.

With regards to STEs, Russia has a biennial obligation to notify its STEs to the WTO's Working Party on State Trading Enterprises (STE Working Party). Russia has missed the biennial deadline to make the required notification six times, most recently in June 2022. The United States has raised this issue in fifteen consecutive meetings of the STE Working Party (from Russia's WTO accession until the cessation of WTO engagement following Russia's further invasion of Ukraine in February 2022), Russia has not fulfilled a single STE notification obligation. In response, Russia has promised to provide the required notifications, claiming the need for more time. The United States will, as appropriate, continue to press Russia on these notification issues and urge Russia to abide by its WTO obligations.

D. Pricing Policies

According to the WPR, Russia agreed that it would not use price controls to restrict the level of imports of goods or services, or for the purpose of protecting the production of domestic goods or impairing its services commitments. In addition, Russia listed in the WPR the limited number of products and services remaining subject to price control or government guidance pricing, and it provided detailed information on the procedures used for establishing prices.

Russia also specifically committed to unify rail transportation charges to ensure that, by July 1, 2013, products imported into, and products destined for exportation or sold for export from, Russia would face the same transportation charges. Russia further committed that regulated railway tariffs would be published before they entered into force. In December 2012, Russia's Federal Tariff Service issued an order governing its tariff policy on rail freight and published draft measures and orders on its website. Since 2017, WTO Members have repeatedly raised

concerns in the Committee on Agriculture about Russia's introduction of a discount on railway tariffs for exported grains from certain regions of Russia.

With regard to natural gas, Russia was allowed under its WTO commitments to continue its domestic price regulatory regime. Russia committed that producers and distributors of natural gas in Russia (including Gazprom, but also independent producers Rosneft and Novatek) would operate – within the relevant regulatory framework – consistent with normal commercial considerations to recover their costs and make a profit. However, Russia's progress in meeting this commitment appears to be modest and uneven. In 2007, Russia started a long-term process to equalize the return on domestic gas sales as compared to the return on international gas sales. Russia has continued to delay the date by which it will achieve equal profitability of export and domestic industrial sales, including through cancellation in 2014 of a planned domestic tariff increase. Based on information obtained from U.S. stakeholders in meetings and written communications, it appears that the domestic price for industrial users may be below export prices. The United States will continue to work with U.S. stakeholders to investigate the pricing of natural gas in the Russian market.

E. Standards, Technical Regulations, and Conformity Assessments

As a WTO Member, Russia has assumed the obligations of the *Agreement on Technical Barriers to Trade* (TBT Agreement) which establishes rules and procedures regarding the development, adoption, and application of standards, technical regulations, and conformity assessment procedures (such as testing or certification) used to determine whether a particular product meets such standards or regulations. The TBT Agreement applies to all products, including industrial and agricultural products, and establishes rules that help eliminate unnecessary obstacles to trade. Furthermore, the TBT Agreement requires, among other things, that such standards-related measures be developed and applied transparently and on a non-discriminatory basis by WTO Members and be based on relevant international standards and guidelines, when appropriate. The WTO's transparency requirements for technical regulations and conformity assessment procedures provide that, in addition to other requirements, Russia must notify to the WTO all technical regulations and conformity assessment procedures that are not based on relevant international standards or where a relevant international standard does not exist, and that may

have a significant effect on trade of other WTO Members, and ensure that other Members have adequate time to submit comments and to have those comments taken into account.

Russia's standards-related measures are implemented through EEC and EAEU measures and Russian domestic requirements. According to the WPR, Russia committed to comply with all provisions of the TBT Agreement, including those relating to transparency and predictability.⁴¹ In addition, Russia has taken specific commitments with regard to technical regulations affecting the telecommunications equipment and civil aviation sectors.⁴²

As Russia has begun to move from national regulations to regional (EAEU) regulations, it has begun to notify those regional regulations. In recent years, Russia notified several regional technical regulations to the WTO's TBT Committee. Russia has not, however, notified the 2018 final technical regulation governing the safety of alcoholic beverages. It has also failed to notify other legislative acts establishing technical regulations governing the required installation in civil aircraft of navigational systems compatible with Russia's global navigation system (GLONASS).

USTR and other U.S. Government officials have engaged with representatives of the U.S. spirits industry and wine industry to discuss Russia's regulation of its alcoholic beverage sector. U.S. stakeholders have raised a number of concerns about the consistency of Russia's (and the EAEU's) regulatory regime with the substantive and procedural requirements of the TBT Agreement. Following some investigation and analysis by USTR and other U.S. Government officials of the legal measures governing Russia's regulation of this sector, U.S. officials raised various concerns in the WTO TBT Committee about the EAEU's draft regulation on alcoholic product safety, in particular with regard to the conformity assessment requirements, traceability requirements, certain wine and beer definitions, aging requirements for whisky, and the requirement for an expiration date on certain alcoholic beverages. The United States also raised concerns about Russia's draft wine law, focusing on definitional provisions, shipping restrictions, use of geographical indications, and labeling requirements. In both cases, the United States urged Russia to notify the measures to the TBT Committee to meet its WTO transparency commitments.

⁴¹ See WPR, ¶¶712, 714, 715, 728, 738, and 739.

⁴² WPR, ¶¶ 738 and 744.

Similarly, Russia has introduced a compulsory requirement that producers of pharmaceutical products, including veterinary drugs, must be certified for compliance with good manufacturing practices (GMP); the regime went into effect in 2016 for new drugs and in 2017 for renewals. USTR and other U.S. Government officials have held many conversations about the regime with U.S. stakeholders. Although the introduction of a GMP regime is not necessarily problematic, Russia did not notify this measure to give other WTO Members an opportunity to review. More importantly, U.S. stakeholders have raised concerns that Russia treats domestic and foreign manufacturers differently in the implementation of its GMP regime for medicines. For example, U.S. industry representatives assert that current Russian legislation outlines different GMP procedures for local and foreign sites. In addition, they contend that Russian inspectors deny GMP certification of foreign manufacturers in significantly higher numbers than domestic manufacturers, a result of the lack of inspection infrastructure necessary to certify (or recertify) expeditiously manufacturing sites for compliance with GMP provisions in such a way as to avoid market and trade disruptions and to ensure that the measures do not, in practice, disproportionately adversely impact imports. Industry stakeholders report that Russia is finalizing new measures that will require GMP certificates for imported veterinary drugs beginning in 2023, potentially closing the Russian market to exports of U.S. veterinary drugs. Prior to 2022, U.S. officials met bilaterally with Russian officials on the margins of the TBT Committee to discuss these concerns, and Russia agreed that previously issued pharmaceutical certificates will be valid until 2025. The United States will, as appropriate, continue to press Russia to respond to the needs and concerns of U.S. stakeholders to ensure that Russia's market remains open to U.S. exports of pharmaceutical products.

A growing concern voiced by U.S. stakeholders is the lack of harmonization of regulatory measures between Russia and the EAEU. At times, Russian regulatory measures and EAEU regulatory measures govern the same industry sector, but create different, and sometimes contradictory requirements. Industry representatives have raised concerns about such conflicts between Russian and EAEU measures governing medical devices, wine, and potentially the labeling regime. Such divergent rules can introduce significant unpredictability into these markets.

U.S. officials will, as appropriate, continue to urge Russia to notify new measures and amendments to the WTO TBT Committee, and to provide responses to inquiries posed by U.S. stakeholders, and to emphasize the importance of stakeholder input during the drafting process. Moreover, the United States will continue to review closely Russia's and the EEC's technical regulations and work to ensure their consistency with the requirements of the TBT Agreement, including with regard to transparency. If the United States determines that Russia is not meeting its WTO obligations, it will take the necessary and appropriate action to ensure that Russia does not use its technical regulations to create unnecessary obstacles to U.S. exports.

F. *Government Procurement*

The WTO *Agreement on Government Procurement* (GPA), a plurilateral agreement, which currently includes 48 WTO Members (including the United States), applies to government procurement of goods and services. The GPA requires GPA members to provide national treatment for covered procurement to the goods, services, and suppliers of other GPA members and to adhere to detailed procedures designed to ensure fairness, predictability, and transparency in the procurement process.

According to the WPR, Russia committed to request observer status in the GPA and to begin negotiations to join the GPA within four years of its WTO accession.⁴³ Russia became a GPA observer on May 29, 2013, and on June 2, 2017, circulated its initial GPA market access offer. On January 8, 2018, Russia circulated its response to the Checklist of Issues that provided detailed information about the Russian procurement system. In May 2018, the United States submitted questions and comments on Russia's initial market access offer reflecting the U.S. view that Russia's initial offer falls short in a number of areas including entity coverage (central, sub-central, and SOEs), goods and services coverage, and general notes. Also in May 2018, the United States submitted questions on Russia's response to the checklist to understand better how the Russian procurement system functions and whether it would satisfy GPA obligations.⁴⁴

⁴³ WPR, ¶1143.

⁴⁴ As part of its response, the United States objected to Russia's treatment of Crimea as part of the Russian Federation.

Russia submitted a written response to these questions in October 2018 and in October 2020 indicated that it was working to identify areas to improve its initial market access offer.

According to research undertaken by USTR and other parts of the U.S. Government, since joining the WTO, Russia has introduced a number of measures that establish preferential treatment for domestically or EAEU produced goods in public procurement, such as a 15 percent price preference for goods of EAEU origin in purchases for government use and a 30 percent pricing preference for radio-electronic products of EAEU origin. In some cases, Russia has banned government procurement of certain imported products if such products are available from at least one manufacturer in the EAEU, including a wide range of machinery (particularly that used in construction and in raw materials extraction), vehicles, medical devices or pharmaceutical products, computer hardware and software, a variety of consumer electronics, a broad array of light industrial goods, construction and building materials, and a variety of agricultural products. In other cases, specifically for government purchases for so-called Critical Information Infrastructure (CII), Russia has banned altogether the purchase of foreign software, software packages, and IT services. The government of Russia has also recommended that regional and municipal authorities switch to domestically produced software. Furthermore, the Russian government in 2022 proposed measures that would limit the ability of foreign-controlled entities to provide software or IT services for all CII entities, whether the CII is state-owned or privately owned. In addition, U.S. stakeholders have raised concerns about Russia's preferences for domestic products in procurement of essential medicines and have described various Russian proposals for future preferences for domestic production in government procurement, such as a proposed 50 percent set aside for Russian made goods in public procurement by 2021. U.S. stakeholders have also reported that Russia's procurement rules mandate not only that Russian government entities must purchase Russian-made products, but that private contractors must use only Russian-made products. The United States is assessing whether the buy-local policy applied to the purchases of private contractors can be consistent with Russia's WTO obligations.

Prior to 2022, the United States, joined by other Members, raised concerns in numerous WTO committee meetings about Russia's adoption of policies that disadvantage imports from other WTO Members in public procurement. As the United States considers Russia's possible accession to the GPA, these measures and policies will be a significant focus.

IX. Services

The *General Agreement on Trade in Services* (GATS) provides a legal framework for addressing barriers affecting trade in services. The GATS contains general obligations, such as MFN and transparency, which apply to all service sectors. In addition, under the GATS, Members undertake specific commitments to provide market access and national treatment in particular sectors as set out in each Member's schedule to the GATS. One of the objectives of the GATS is progressive liberalization, and toward that end it provides for further negotiations to open services markets of other WTO Members.

In its services schedule, Russia committed to substantial openness in a broad range of services sectors, including through the elimination of many existing limitations in service sectors of importance to the United States, such as financial services, telecommunications, distribution, energy, express delivery, professional services, and audio-visual services.⁴⁵ Russia also took “horizontal” (cross-sectoral) commitments related to its regulatory processes and structure. During the years of Russia's WTO accession negotiations, it undertook a series of steps to improve the business environment in Russia, including streamlining the processes for company registration and reducing the number of activities subject to licensing. To address concerns of WTO Members about its activity licensing regime, Russia committed to make publicly available its measures affecting trade in services, as well as the names of the competent authorities responsible for issuing licenses. Russia undertook specific commitments to ensure transparency in the process for granting and denying licenses and to ensure that the relevant regulatory authority would not be accountable to any service supplier that it regulates in sectors where Russia had taken specific commitments. Russia further committed to instituting notice and comment requirements to ensure transparency in the development of the regulatory regime governing those same sectors. Russia's services commitments also establish the rules for business visas for executives and professionals, and allow service companies to transfer vital employees to their operations in Russia.

As noted above, since the imposition by the United States and its partners and allies of wide-ranging sanctions in response to Russia's full-scale invasion of Ukraine, many U.S. service

⁴⁵ See WPR, Part II – Schedule of Specific Commitments on Services.

suppliers have exited the Russian market. Nevertheless, the United States continues to monitor Russia's compliance with its services obligations and to consult with U.S. stakeholders regarding their concerns.

A. Financial Services

Russia undertook significant market opening commitments in the financial services sector, including allowing 100 percent foreign ownership of certain non-insurance financial services firms, including banks, broker dealers, and investment companies. Russia agreed that foreign companies can own and trade the full range of securities (including state securities, bullion, and new instruments, once they are approved), lead-manage Russian securities issuance, and participate in financing the privatization of government-owned firms. Russia also agreed to allow important cross-border services such as financial leasing, financial information, and data processing, as well as credit cards and other types of payments. Although Russia did not grant any WTO Member the ability to open bank branches in its territory, in 2022, the Central Bank of Russia proposed allowing foreign banks to open branches in Russia, but only for banks from so-called "friendly countries" (i.e., those who have not imposed sanctions on Russia stemming from its war of aggression in Ukraine). While the ability to open bank branches in Russia would be welcome, the ability of banks from only "friendly countries" could run afoul of Russia's national treatment obligations. The United States will monitor the development of this proposal and, as appropriate, seek further information from Russia as to how the measure comports with its WTO GATS commitments.

With regard to insurance, Russia has agreed to provide a significant level of market access and national treatment for U.S. insurance companies, including 100 percent foreign ownership of non-life insurance firms. Russia has also committed to phase out its existing restrictions on foreign insurance firms. Limits on the number of life insurance licenses granted to foreign insurance firms, as well as foreign participation in a small number of mandatory insurance lines, were to be phased out over five years from the date of Russia's accession. Russia committed to allow foreign insurance companies to open direct branches for life and non-life insurance, reinsurance, and services auxiliary to insurance nine years from the date of its accession. The United States will continue to monitor Russia's insurance regime to ensure its consistency with its WTO insurance services commitments.

B. Telecommunications

Russia agreed to open its market for telecommunication services, both on a facilities and non-facilities basis, to all WTO suppliers as of the date of its accession to the WTO. Sectoral coverage is comprehensive, and Russia committed to allow telecommunications companies to operate as 100 percent foreign-owned enterprises. Russia also accepted the pro-competition WTO Basic Telecommunications Reference Paper, which requires the establishment of an independent regulator, the prevention of anti-competitive behavior by dominant suppliers, and the introduction of transparency obligations and interconnection requirements. As part of its WTO accession commitments, Russia eliminated the requirement that a fixed satellite operator must establish a commercial presence in Russia in order to provide capacity to a Russian telecommunications company. However, consistent with its import substitution strategy, Russia has, since 2017, required that a telecommunications operator wishing to rent capacity from a foreign satellite operator must first demonstrate that Russian satellite providers do not have such capacity. U.S. officials had, prior to February 2022, raised concerns at the WTO about this mandate and will, as appropriate, continue to review Russia's implementation of its WTO commitments.

C. Computer and Related Services

Russia committed not to limit market access and to extend national treatment to all computer and related services, including on a cross-border basis. This latter commitment is particularly important, given the growth of cloud computing. An ongoing concern is how Russia's data protection laws, most importantly the core requirement that personal data of Russian individuals be stored and processed on servers located in Russia, relate to its computer and related services commitments. Further, since 2021, Russia has required the pre-installation of specified Russian software on certain consumer electronic products (*e.g.*, smartphones, computers, tablets, and smart TVs) sold in Russia. The Russian government has identified categories covered by the pre-installation mandate, including search engines, mapping and navigation software, anti-virus software, software that provides access to e-government infrastructure, instant messaging and social network software, and national payment software. Every year the Russian government identifies specific software within each category that must be pre-installed, unless the software is incompatible with the device's operating system; in 2022, the government of Russia expanded

the list to include a Russian application store. U.S. stakeholders are concerned about various operational aspects of the mandate, such as who determines whether a particular software application is incompatible with the operating system and whether there is an obligation to remedy the incompatibility. In addition, U.S. stakeholders remain concerned about the apparent competitive advantage the measure gives to domestic software, as well as the plans to amend the list annually. Prior to Russia's full-scale invasion of Ukraine in 2022, U.S. officials had raised questions in the WTO and continue to look forward to Russia's written responses to those questions.

In 2020, the Russian government adopted domestic tax policies that appear to lower the tax rates for domestic firms in the IT sector. As mentioned above (see discussion on "*Non-discrimination*"), the Russian government amended the Tax Code to lower the domestic corporate tax rate and social security contribution rate for Russian IT firms and exempted royalties on domestic software from the payment of VAT. According to U.S. stakeholders, these differential tax rates could result in higher taxation levels on foreign service suppliers because the conditions to be considered a "Russian organization" and "Russian software" are effectively impossible for virtually any foreign company to meet. Russia's import substitution strategies for the IT sector, such as the "Digital Economy of the Russian Federation," also raise additional national treatment and import substitution concerns. USTR continues to review the relevant laws (and the few subsidiary measures and explanatory documents available) and consult with a wide variety of U.S. stakeholders and trading partners impacted by these strategies.

In 2021, Russia adopted a law that requires "IT companies" with a daily Russian audience of more than 500,000 people to establish a presence in Russia. To implement this law, the Ministry of Digital Development, Communications and Mass Media published a draft resolution that would give Roskomnadzor, the Russian communications watchdog, the authority to set up a "blacklist" of foreign IT companies with more than 500,000 Russian daily viewers that have not established local offices in Russia and to prohibit any electronic payments to those companies. U.S. officials had, prior to February 2022, raised questions in the WTO and will, as appropriate, continue to press Russia to maintain an open services market for computer and related services. The United States will continue to scrutinize closely Russia's information

technology sector policies and the implementation of its commitments in this area to ensure that U.S. interests are not adversely impacted.

D. Audio-Visual and Media Services

Russia made strong commitments related to its dynamic film, television, and media sectors, including in motion picture distribution and projection services, the sale of programming to television and radio stations, printing and publishing, and news agency services. Russia also agreed to allow foreign audio-visual companies to operate as 100 percent foreign-owned enterprises. Since 2015, however, Russia has banned advertisements on pay cable and satellite channels. It is unclear whether or not the law applies to state-owned television channels, but because those channels are subsidized by the state and hence rely little, if at all, on advertising revenue, the ban is likely to have had little, if any, practical impact on them. Further, in 2017, Russia adopted a law limiting foreign ownership of large online streaming companies (*i.e.*, over 100,000 daily views Russia-wide per month) to 20 percent. Russia has not, however, issued any implementing legislation, resulting in significant uncertainty to the market. Also in 2017, Russia began enforcing a law (adopted in 2014) that limits foreign ownership of Russian media assets to 20 percent. In 2022, the Russian government announced that it would require foreign streaming services with over 100,000 daily users to register a Russian company and to offer 20 Russian free-to-air television channels to its subscribers, including the state-owned Channel 1. (Affected companies suspended operations in Russia due to Russia's full-scale invasion of Ukraine before the measure went into effect.) The United States will consult with U.S. stakeholders regarding the impact of these measures on U.S. interests and will, as appropriate, work to ensure Russia acts consistently with its WTO obligations.

X. Intellectual Property Rights

Upon joining the WTO, Russia assumed all the obligations of the *Agreement on Trade-Related Aspects of Intellectual Property Rights* (TRIPS Agreement) and the additional commitments on intellectual property rights (IPR) issues contained in the WPR. The TRIPS Agreement sets minimum standards for protection of copyrights and related rights, trademarks, geographical indications, industrial designs, patents, integrated-circuit layout designs, and undisclosed information. The TRIPS Agreement also establishes minimum standards for the enforcement of

IPR in administrative and civil actions and, at least in certain cases involving copyright piracy and trademark counterfeiting, in criminal actions and actions at the border. Furthermore, the TRIPS Agreement requires that, with very limited exceptions, WTO Members provide national and MFN treatment to the nationals of other WTO Members with regard to the protection and enforcement of IPR.

According to the WPR, Russia undertook additional commitments on IPR protection and enforcement, such as clarifying how undisclosed information and test data will be protected in Russia,⁴⁶ withdrawing exceptions to copyright protection for works that existed prior to 1995,⁴⁷ reviewing and improving the operation of its collecting society regime, and updating law enforcement procedures to address certain issues related to digital piracy of materials protected by copyright.⁴⁸

A. Legal Framework

Prior to its accession to the WTO, Russia amended its IPR laws to integrate WTO commitments into its legal regime and with the objective of implementing the 2006 United States-Russia bilateral IPR agreement. Russia improved its civil protections for IPR by amending Part IV of its Civil Code, which relates to protection of various forms of IPR, including patents, trademarks, and copyrights and related rights, updating its civil enforcement procedures and adopting the legal framework for Russia's implementation of the World Intellectual Property Organization (WIPO) Copyright Treaty and the WIPO Performances and Phonograms Treaty, referred to collectively as the WIPO Internet Treaties.⁴⁹ Russia has not yet fully harmonized Part IV of the Russian Civil Code with the WIPO Copyright Treaty. This legislative inaction appears to have generated uncertainty with law enforcement agencies about the proper scope and procedures for enforcement of copyright and related rights, including those protected by the TRIPS Agreement. Russia also amended its Civil Code to clarify that an existing Internet domain name would not serve as a ground for refusal to register a third party's trademark or service mark for that name.⁵⁰

⁴⁶ WPR, ¶1295.

⁴⁷ WPR, ¶1224.

⁴⁸ WPR, ¶¶1208, 1294, 1295, and 1339.

⁴⁹ WPR, ¶¶1208, 1224, 1303, 1312, 1338, 1339, 1350, and 1353.

⁵⁰ WPR, ¶1253.

Russia also standardized its patent fees to apply in the same manner to Russian and non-Russian entities.⁵¹

In recent years, reflecting commitments described in the WPR, Russia has made progress toward implementing controls on unlawful optical media production, notably through amendment of its Law on Activity Licensing, to ensure that copyright infringers cannot renew a license to engage in optical media production. However, the extension of such controls to other forms of unlawful media production is still yet to be confirmed. Consistent with a commitment contained in the WPR, Russia revoked its reservation to Article 18 of the Berne Convention for the Protection of Literary and Artistic Works in 2013. As a result, Russia now provides copyright protections for works that existed prior to 1995 and originated from the United States or any other party to the Berne Convention or the WTO Agreement.

According to the WPR, Russia committed to take action against websites that facilitate illegal distribution of content protected by copyright or related rights. Since its accession, Russia has adopted legislation targeting online piracy of television and film and strengthening protection and enforcement for copyrightable material, including permanent injunctions with respect to repeated copyright infringement, and covering “mirror” websites (websites with the same infringing content moved to a different URL). According to stakeholders, these laws have helped combat illicit trade facilitated by infringing websites and services. However, implementation of the laws has been directed only against infringing activities that target users in Russia. The United States continues to study closely Russia’s evolving laws and practices related to online piracy.

According to the WPR, Russia also committed to ensure that the thresholds for the application of criminal procedures and penalties with regard to cases of willful trademark counterfeiting or copyright piracy on a commercial scale would be set and applied in a manner that reflected the realities of the commercial marketplace.⁵² Accordingly, Russia amended its Criminal Code to establish fines and to reflect adjustments to the threshold for the application of criminal procedures and penalties for willful counterfeiting or commercial-scale piracy; these changes

⁵¹ WPR, ¶1226.

⁵² See WPR, ¶1350.

should result in penalties that have a stronger deterrent effect. In addition, as called for in the WPR commitments, Russia ensured that its Civil Code does not predicate protection of a well-known trademark on its inclusion in Russia's List of Well-Known Trademarks.⁵³

Russia's customs law also required alteration to strengthen IPR protection. In December 2010, Russia adopted the Law "on Customs Regulation" to provide express authority to its customs authorities to take *ex officio* action and strengthened the *ex officio* provisions contained in the CU Customs Code. The law also updated procedures for registering certain intellectual property rights with the Russian Customs IPR Register. However, Russia has yet to harmonize fully its IPR regime with the regulatory principles adopted under the EAEU. The United States monitors Russia's implementation of the EAEU Customs Code in order to evaluate Russia's compliance with its WTO commitments.

In 2010, Russia passed amendments to the Law on the Circulation of Medicines related to protection against the unfair commercial use, as well as the unauthorized disclosure, of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products, including six years of protection for such data from reliance by subsequent applicants seeking marketing approval for the same pharmaceutical product. These amendments came into force the day Russia became a WTO Member, but Russia still has not implemented final regulations necessary to ensure implementation of such protection. In 2014, Russia again amended the Law on the Circulation of Medicines to provide four years of data exclusivity and two years of marketing exclusivity (as it relates to generic drug registration) and three years of data exclusivity and three years of marketing exclusivity (as it relates to biosimilar drug registration). The EAEU rules for the registration of new medicines went into effect in early 2021, superseding Russia's Law on the Circulation of Medicines. According to U.S. stakeholders, the EAEU rules do not include provisions on undisclosed test or other data equivalent to those found in the Law on the Circulation of Medicines and Russia's WPR, raising concerns about Russia's willingness to continue applying a six-year term of protection for such data in considering follow-on marketing applications, consistent with its WTO obligations. USTR continues to engage actively and often with U.S. stakeholders on Russia's protection and

⁵³ See WPR, ¶1256-1260.

enforcement of IPR, and will use the appropriate instruments of the WTO to ensure that Russia meets its WTO commitments.

The United States is also closely monitoring proposals and measures undertaken by Russia that would allow uncompensated use of IP held by right holders based in countries that have sanctioned Russia. The United States will continue to monitor Russia's actions on this issue in order to evaluate Russia's compliance with its WTO commitments.

B. Enforcement

Russia committed, upon becoming a WTO Member, to apply fully the TRIPS provisions for enforcement of IPR, without a transitional period.⁵⁴ According to the WPR, Russia also committed to take "expeditious action" against acts of infringement on the basis of complaints lodged by right holders and through other means with the objective of eliminating such acts in Russia.⁵⁵ Russia made specific commitments for authorized officials to conduct unannounced inspections of plants licensed to produce optical media bearing content protected by copyright or related rights.⁵⁶ Although Russia conducted such raids initially, piracy has now largely moved online, making optical media disk piracy a small portion of the infringing content market. Russia also established a specialized court for intellectual property disputes, which began operating in the summer of 2013.

USTR and other U.S. officials communicate on a regular basis with U.S. stakeholders to discuss Russia's IPR enforcement record. Based on those discussions, and USTR's ongoing observations, it is evident that, as a general matter, the current IPR enforcement environment in Russia remains weak.⁵⁷ Piracy (especially online), the illegal camcording of motion pictures, lack of transparency and accountability in the administration of the system for collective management organizations responsible for collecting and distributing copyright royalties to right

⁵⁴ WPR, ¶1353.

⁵⁵ WPR, ¶1312.

⁵⁶ WPR, ¶1338.

⁵⁷ In 2022, Russia remained on USTR's Special 301 Priority Watch List.

holders, and sales of counterfeit goods sourced from China are particular concerns for U.S. industry.

According to the WPR, Russia committed to take enforcement actions against online piracy⁵⁸ and to ensure that existing law is applied to prevent certain types of devices or services from circumventing technical protection measures that control access or protect content,⁵⁹ but notorious pirate websites continue to proliferate. Since its WTO accession, Russia has enacted legislation providing a framework to combat certain types of online piracy in cases where an action is initiated by right holders. Right holders and online platforms in Russia signed an anti-piracy memorandum in 2018, extended to March 2023, to facilitate the removal of links to infringing websites. Although legislation was proposed to codify the terms of this memorandum, and extend its coverage to all copyrighted works and to all Russian platforms and search engines, the Duma has not yet considered the proposed bill. Furthermore, although right holders are able to obtain court-ordered injunctions against infringing websites, additional steps must be taken to target the root of the problem, namely, investigating and prosecuting the owners of the large commercial websites distributing pirated material, including software. In particular, the government of Russia continues to fail to act against individuals located in Russia that operate infringing sites that target users outside of Russia.

Poor enforcement in Russia has also led to a sharp increase in the distribution and availability of pirated movies, particularly following the suspension by the U.S. film industry of operations in Russia after its further invasion of Ukraine in 2022. Through rampant unauthorized camcording, pirates reproduce unauthorized copies of films and then upload them onto the Internet for illegal streaming and illegal downloading (and sell them as counterfeit DVDs). According to U.S. stakeholders, Russia is home to some of the most prolific criminal enterprises for the release of pirated movies. The United States will continue to review and analyze Russia's enforcement of IPR, and whether those actions result in combatting the commercial scale online piracy of the type identified in the USTR's [*Review of Notorious Markets for Counterfeiting and Piracy*](#).

⁵⁸ WPR, ¶1339.

⁵⁹ WPR, ¶1232.

Another area in which enforcement appears inadequate is with respect to patent enforcement. According to stakeholders, Russia does not appear to have an effective mechanism for the early resolution of potential patent infringement disputes involving pharmaceutical products. For example, stakeholders report that because Russian courts rarely grant preliminary injunctions in pharmaceutical patent infringement cases, alleged patent infringing follow-on products can enter the market prematurely.

In fact, currently available information continues to indicate that overall enforcement of IPR has decreased, rather than increased, over the past few years. Criminal enforcement, in particular, has been lacking especially against owners or operators of the large enterprises that propagate commercial scale piracy. An ongoing barrier to Russia's adequate and effective enforcement of IPR is not only a lack of political will, but also the lack of resources devoted to hiring and training law enforcement personnel to investigate and prosecute IPR crimes. Furthermore, U.S. stakeholders have informed us that when they attempt to enforce their IPR through civil litigation, administrative and procedural hurdles prevent them from doing so.

Russia's size and geographic location make enforcement of IPR at its borders an essential component of IPR protection. According to the WPR, Russia committed that, from the date of its accession, it would encourage its customs officials to use their *ex officio* authority to strengthen enforcement against acts of infringement at the border, based on the provisions of the TRIPS Agreement.⁶⁰ Russia needs to work with the other EAEU member states to ensure that the regulatory principles adopted in the EAEU Treaty are executed in a manner that most effectively protects IPR and are consistent with Russia's WTO commitments. The United States will continue to scrutinize Russia's progress in this regard.

Based on information gathered by USTR from U.S. stakeholders, it appears that Russia's collecting society regime remains nontransparent and burdensome, making it difficult for right holders to be fairly compensated for the use of their intellectual property. Russia committed in the WPR to review its system of collective management of rights,⁶¹ and this review seems to have resulted in a 10-year re-appointment term of the existing collecting societies, which are

⁶⁰ See WPR, ¶1331.

⁶¹ WPR, ¶1218.

unable or have failed to properly represent and compensate U.S. right holders. Russia stated also that it intended to phase out non-contractual license management within five years of Part IV of the Civil Code entering into force (which happened in 2013), but does not yet appear to have taken steps to meet that deadline. Legislation intended to address problems of state accreditation and governance of collecting societies does not allow right holders to be involved in the selection and management of the organization and fails to provide sufficient transparency to determine what royalties are being collected and to whom they are being paid. The United States will, as appropriate, press Russia to accelerate its reform efforts to improve the transparency and effectiveness of these organizations, and, in particular, to ensure that U.S. right holders receive equal treatment with respect to Russia's domestic right holders.

The United States had been engaging on a bilateral basis on these issues through the United States-Russian Federation Intellectual Property Rights Working Group and other means. However, as noted above, due to the current political situation, bilateral engagement with Russia has been put on hold since early 2014, and since 2022, WTO engagement has ceased, including the bilateral IPR dialogue. The United States does, however, continue to monitor Russia's IP regime, including through the Special 301 Report. The United States will continue, as appropriate, to press Russia for full implementation of its WTO commitments.

XI. Investment

A. Trade-Related Investment Measures

The *Agreement on Trade-Related Investment Measures* (TRIMS Agreement) prohibits trade-related investment measures that are inconsistent with a Member's obligations under Article III (national treatment) and Article XI (general elimination of quantitative restrictions) of GATT 1994. The TRIMS Agreement thus requires elimination of measures such as those that require or provide benefits for the use of domestically produced goods (local content requirements), or measures that restrict a firm's imports to an amount related to its exports or related to the amount of foreign exchange a firm earns (trade balancing requirements).

During the 19 years it was negotiating its WTO accession, Russia worked to bring its investment-incentive programs into compliance with the TRIMS disciplines. For example, prior to its WTO accession, Russia had in place a law that required production sharing agreements

(PSAs) to include the obligation to purchase a certain percentage of Russian technical equipment for natural resource extraction and to employ a certain percentage of Russian citizens. In preparation for WTO membership, Russia amended its law governing PSAs to provide that, for all PSA contracts signed after Russia's WTO accession, any WTO-inconsistent provisions in such contracts would be invalidated or brought into conformity with the WTO Agreement. In addition, Russia has stopped concluding PSA agreements. Similarly, in the aircraft sector, in August 2001, Russia eliminated the exemption from customs duties and taxes for temporary import for aircraft, aircraft parts and engines, and simulators that were imported under investment agreements.

According to the WPR, Russia agreed that, except for measures subject to a specific transition period, all of its laws, regulations, or other measures concerning matters covered in the TRIMS provisions of the WPR, whether adopted by it or the competent bodies of the EAEU, would be consistent with its WTO commitments, and in particular with the TRIMS Agreement, as of the date of Russia's membership in the WTO. WTO Members agreed to provide Russia with a transition period to bring two programs that comprise Russia's automotive assembly investment incentive regime into WTO compliance. The first program, introduced in 2005, allows for the duty-free entry of auto parts used in the production of vehicles that contain a certain level of Russian content. In December 2010, Russia initiated a second automotive industry investment incentive program that increased the production volume significantly as well as the domestic content requirement to qualify for duty-free entry of auto parts. Russia notified the WTO that it had terminated these automotive investment incentive programs as of July 1, 2018. However, the Ministry of Industry and Trade later announced a program to support automotive manufacturers that met certain production quotas and local content requirements. The United States will seek further information about these new state support programs to ascertain their consistency with Russia's WTO commitments.

Since Russia became a WTO Member, in response to concerns raised by the United States and other Members in TRIMS Committee meetings, Russia eliminated the program under which the Ministry of Agriculture provided loans to farmers at an interest rate below the market rates for the purchase of farm machinery manufactured in Russia.⁶² The United States continues to watch

⁶² See WPR, ¶698.

for possible local content requirements in a preferential leasing program implemented by a Russian government-owned agricultural equipment leasing company, RosAgroLeasing.

Other initiatives that USTR is reviewing for compliance with Russia's TRIMS obligations include a program to support automotive leases of only Russian-made automobiles; efforts by the Government Import Substitution Commission to limit the goods and services that may be sourced outside of Russia by government entities and SOEs; a proposal to establish a minimum target for procurement by SOEs of "hi-tech and innovative products," including from small and medium-sized businesses; proposals to link investment incentives for certain electronic products to local sourcing; the requirement to pre-install Russian software in certain consumer electronic products sold in Russia; and the requirement that most foreign Internet platforms establish a legal presence in Russia. Of additional concern to U.S. industry stakeholders is the requirement that those companies install special software that allows the Government of Russia to track the number of users. To obtain information regarding these initiatives, in particular concerning their consistency with Russia's WTO commitments, USTR has met with relevant stakeholders and consulted with foreign interlocutors. In the WTO, prior to 2022, the United States had repeatedly posed written questions about these programs in the TRIMS Committee. Although Russia provided some oral responses, they were vague and did not address all of the issues raised. Russia has not provided written replies. The United States will, as appropriate, press Russia for complete responses.

Furthermore, in light of Russia's focus on local content, the United States has sought, and will, as appropriate, continue to seek, information in the TRIMS Committee, the Market Access Committee, the Council on Trade in Goods and the Council on Trade in Services on programs that support domestic production at the expense of imports to supplement information provided by U.S. stakeholders and USTR's independent research. The goal is to ensure Russia's compliance with its commitments under the WTO Agreement and the WPR.

B. Special Economic Zones

Upon accession to the WTO, Russia undertook to apply the provisions of the WTO Agreement throughout its territory, including in its special economic zones (SEZs), which were established

to encourage investment through the extension of certain incentives.⁶³ Russia has a 10-year transition period, from the date of accession, to implement this commitment for the Kaliningrad and Magadan SEZs. To implement that commitment, Russia adopted a new law on SEZs which did not impose any export performance or local content requirements on operations in SEZs. In addition, all customs duties, VAT, and excise taxes due on goods imported into the SEZs were to be paid when those goods were released into the chain of commerce in Russia whether or not those goods were further processed. Moreover, Russia agreed to apply all EAEU agreements governing SEZs in a manner consistent with its WTO obligations and to work with its EAEU partners to amend any EAEU measures to ensure their consistency with Russia's WTO commitments. The United States will continue to monitor Russia's SEZs, including the "Titanium Valley" SEZ, to ensure its consistency with Russia's WTO commitments.

XII. Rule of Law

In order to address major concerns raised by WTO Members during its lengthy WTO accession negotiations, Russia committed to broad legal reforms in the areas of transparency, uniform application of laws, and judicial review. Implementation of these reforms would strengthen the rule of law in Russia's economy and help to address pre-WTO accession practices that have made it difficult for U.S. and other foreign companies to do business and invest in Russia.

A. Eurasian Economic Union

As noted above, Russia has transferred authority for many aspects of its trade regime to the EAEU. The administrative bodies of the EAEU include the EAEU Court, which has competence, *inter alia*, over disputes of an economic nature arising from the implementation of decisions of the EAEU bodies and treaties. The Court of the EAEU does not have jurisdiction to opine directly on the member states' WTO obligations nor can the EAEU Court rule on a member state's compliance with such obligations. However, after the Treaty on the Multilateral Trading System was adopted in 2011, the EAEU Court received the legal authority to provide advisory opinions on whether an EAEU measure violates WTO rules. The right to bring a case to the EAEU Court is not limited to the EAEU member states or the bodies of the EAEU;

⁶³ WPR, ¶1124.

individuals with a specific interest can also challenge EAEU acts in the EAEU Court. USTR continues to study and analyze the workings of the EAEU to understand better its rules and procedures and their compliance with Russia's WTO obligations.

B. Transparency

One of the core principles of the WTO Agreement reflected throughout Russia's WPR is transparency. Transparency permits markets to function more effectively and reduces opportunities for officials to engage in trade-distorting practices behind closed doors. Many of the WTO agreements contain initial and annual notification requirements to ensure that other WTO Members are aware of any new measures being implemented and have the opportunity to raise questions and concerns with regard to those measures.

Russia agreed in the WPR to submit all of the required initial notifications by the date of its accession, with the exception of five notifications which were to be submitted within specified deadlines following its accession.⁶⁴ In addition, Russia committed to establish formal notice and comment procedures for proposed measures pertaining to or affecting trade in goods, services, and intellectual property;⁶⁵ to provide WTO Members and interested parties with decisions in writing setting out reasons for the decision;⁶⁶ and to institute new rights of appeal of decisions.⁶⁷ These obligations apply to measures that the EEC adopts and that are applied in Russia and to Russia's domestic laws, regulations, and other measures. Russia has also undertaken specific commitments regarding transparency on issues ranging from application of price controls to fees charged for engaging in importing or exporting goods.

To implement Russia's transparency commitments at the EAEU level, the EEC established procedures for publication and public comment on proposed EAEU legal acts, including a requirement that draft decisions shall be published no fewer than 45 calendar days before the EEC meeting at which the decision will be considered. The EEC provided additional details concerning SPS quarantine and veterinary-sanitary measures, including requiring that draft decisions and recommendations be published for no fewer than 60 calendar days prior to

⁶⁴ WPR, ¶1430.

⁶⁵ WPR, ¶1427.

⁶⁶ *See, e.g.*, WPR, ¶1418.

⁶⁷ *See, e.g.*, WPR, ¶¶189-202.

adoption of such measures. This mechanism appears to provide that these EAEU measures will not become effective prior to their publication.

During the 18 years of its accession negotiations, Russia provided the required initial notifications as part of the WTO review of its trade regime. Russia has also provided to the WTO all the initial notifications which it committed to provide in the WPR (although, as noted above, it has failed to provide subsequent notifications). Russia has notified many modifications and updates to its trade regime (*e.g.*, TBT measures, SPS measures, or trade remedy actions) as required under its transparency commitments. Although Russia provided tariff data to the WTO's Integrated Data Base, there were gaps in Russia's reporting of its MFN rates and it has not provided import data or data on its *ad valorem* equivalents of specific tariffs. Moreover, in April 2022, Russia stopped publishing its import and export data altogether. In addition, as noted above, Russia has refused to meet the transparency obligation to notify its STEs to the STE Working Party.

Prior to February 2022, the United States had used a variety of WTO committee meetings to identify instances in which Russia has not notified measures, as well as to seek additional information and provide comments on certain measures that have been notified. For example, the United States submitted multiple rounds of questions, prompting Russia to provide further details on certain investment incentive programs and certain subsidy programs giving the United States a greater understanding of these measures. The United States has also raised concerns for a number of years regarding Russia's lack of transparency in the WTO Committee on Agriculture with respect to export credits for agricultural exports. Russia has yet to provide adequate information on those export credits.

As made clear throughout this report, the United States has serious concerns about the completeness of Russia's notifications made pursuant to the WTO Agreement. Notifications are intended to provide important factual information regarding each Member's trade regime and practices. Russia's failure to notify affects negatively Members that would benefit from understanding Russia's trading system, while also damaging the WTO as an institution. To encourage compliance, the United States and 32 co-sponsors support a draft General Council decision on *Procedures to Enhance Transparency and Improve Compliance With Notification Requirements Under WTO Agreements*, which would reform the operation and effectiveness of

notifications, offer tangible benefits for all WTO Members, and provide enhanced trade predictability and trust between Members. The United States believes that systemic and specific improvement will encourage and enable Russia and other WTO Members to comply with their notification obligations. The United States will continue to analyze the comprehensiveness of Russia's notifications, as well as the availability of adequate and appropriate opportunities to comment on those notifications.

C. Judicial Review

The right to prompt and effective judicial review of economic matters by an independent tribunal is a fundamental component of the WTO Agreement and, in fact, is explicitly required in many of the covered agreements comprising the WTO Agreement. Russian law appears to ensure the right of appeal on customs-related matters (both actions and inactions), tax issues, and the protection of IPR and technical regulations, including SPS issues. Moreover, Russia has specifically committed that it will provide the right for independent review consistent with its WTO commitments.⁶⁸ However, Russia's judicial system has a reputation of being heavily influenced by political factors and not independent.

Because many aspects of Russia's trade regime have been transferred to the EAEU, Russia has worked, and continues to work, with its EAEU partners to adopt the legal acts necessary to ensure that WTO Members and their nationals have recourse to the EAEU Court that has jurisdiction over EAEU issues, including whether Russia or the other EAEU member states have effectively implemented EAEU acts related to WTO issues.

U.S. officials are not currently aware of any areas of concern with respect to Russia's implementation of these commitments since becoming a WTO Member.

XIII. Conclusion

Ten years ago, Russia joined the WTO, after making significant changes to its legal and regulatory regime covering trade and investment. The United States hoped that this move would benefit Russia, the United States, and the global trading system. Since that time, Russia has

⁶⁸ See WPR, ¶ 215.

reversed course, raising trade barriers, closing its market to imports, strengthening its control over its economy, and stifling innovation. The United States believes strongly in the principles of the WTO - transparency, predictability and the rule of law. The United States will continue to support an open and fair multilateral trading system to support global prosperity and security for all. We look forward to the day that we can again work with Russia towards that common goal.

Appendix 1

List of Written Comments Submitted in Response to Request for Public Comment on Russia's Implementation of its WTO Commitments by the Trade Policy Staff Committee

1. ATI Inc., Howmet Aerospace and the Titanium Metals Corporation
2. Eurochem Switzerland
3. International Intellectual Property Alliance
4. National Association of Manufacturers