



HOW RUSSIA'S ACCESSION TO THE WORLD TRADE ORGANIZATION WILL INCREASE TRANSPARENCY, PREDICTABILITY, AND CERTAINTY THROUGHOUT RUSSIA'S TRADE REGIME

Pre-Accession Situation in Russia and its Customs Union with Kazakhstan and Belarus

- Russia's laws and regulations have often been adopted based only on the views of government officials and domestic interests without providing a meaningful opportunity for other interested parties, including other governments, to provide input.
- Trade, in particular customs matters, has often been regulated based on non-public "internal guidance" issued by Russia's ministries and agencies.
- In some cases, exporters and importers have not had information on what measures were in effect or when new requirements applied.
- Laws, regulations and other measures have been difficult to find in written form or on the internet, and government contact points functioned only for standards (technical barriers to trade (TBT)) and to a limited extent for sanitary and phytosanitary (SPS) measures.
- The Customs Union between Russia, Kazakhstan and Belarus, which was responsible for adopting rules on customs issues, including tariffs and valuation, TBT, SPS, trade remedies, import licensing and many other goods-related issues, had no mechanism for input from WTO Members and interested persons from non-Customs Union Parties. The United States and other foreign interested persons had to raise issues indirectly through the domestic governments of Russia, Kazakhstan or Belarus.
- The lack of transparency in adopting laws and other measures and in applying them has meant that arbitrary decisions by officials could not be challenged effectively. The rules were not known and the rationale for a particular decision often was not provided.

Transparency and Related Issues After Russia's Accession to the World Trade Organization (WTO)

- As part of the terms for Russia's membership in the WTO, Russia has clarified the scope of its obligations to provide transparency and agreed on how it will implement its commitments. These obligations apply both to measures that the Customs Union Commission adopts and are applied in Russia as well as to Russia's domestic laws, regulations and other measures.
- Key improvements involve: formal establishment of notice and comment procedures for proposed measures pertaining to or affecting trade in goods, services, and intellectual property; requirements to provide to WTO Members and interested persons decisions in writing setting out reasons for the decision, and new rights of appeal of decisions.
- Implementation of transparency and other WTO obligations related to the "rule of law" in the trade area, will help address issues related to corruption and accountability and could establish a pattern that could have a positive effect in other areas.

WTO Rules on Transparency and Russia's Specific Commitments on Transparency and other "Rule of Law" Issues

- Transparency is one of the foundation principles of the WTO Agreement and the multilateral trade agreements. General obligations that will apply to Russia include requirements on publication of laws and other measures before they go into effect and notification of new measures of changes in measures. Under WTO rules, Russia is required to consult with Members on a wide range of WTO issues, upon request of a

Member. The WTO Committees provide a venue for Members to seek information and provide views on laws, regulations and other measures that will be applied in Russia both before and after they are adopted.

- As a WTO Member, Russia is obligated to apply measures uniformly throughout its territory. In addition to its obligations under Article X of GATT 1994, Russia has agreed that any individual or entity can bring cases alleging non-application or non-uniform application of Russia's WTO obligations to the attention of the Russian or Customs Union authorities and that such claims will be investigated and, if accurate, will be addressed without requiring action through the courts. Notice would be provided regarding any decision and action taken.
- Russia has accepted a broad obligation on advance publication of laws and other measures pertaining to or affecting trade in goods, services, and intellectual property rights and will provide a reasonable period of time (not less than 30 days) for interested persons to provide comments on these proposed laws and other measures.
- At the Customs Union level, for Customs Union legal acts covered by Russia's WTO commitments, a mechanism will be established for publication of proposed CU legal acts before such acts are adopted and to provide a reasonable period of time for Members and interested persons to provide comments to the competent CU Body. This mechanism will also provide that, consistent with the WTO Agreement, these Customs Union legal acts will not become effective prior to their publication.
- In addition to the provisions on right of appeal in the WTO Agreement, Russia has undertaken specific commitments to ensure that interested persons have a right of appeal as required under Russia's WTO obligations. In the case of the Customs Union, Russia has worked with its Customs Union partners to adopt the legal acts necessary to ensure that WTO Members and their nationals have recourse to the EurAsEC Court which has jurisdiction over Customs Union issues, including whether Russia or the other Customs Union Parties have effectively implemented Customs Union acts related to WTO issues.
- Russia has agreed to undertake detailed specific commitments on licensing of services providers. These undertakings include commitments that all licensing procedures and requirements will be set out in normative legal acts (rather than non-public guidelines), that any law establishing or implementing licensing procedures or requirements would be published no later than its effective date, and that any other normative legal act (orders, decrees etc) that establishes and implements licensing procedures or requirements would be published prior to its effective date. If an application for a license is denied, the relevant regulatory authority is required, upon request, to inform the applicant of the reasons for denial of the application, unless disclosure of the reasons would impede law enforcement or otherwise be contrary to the public interest or essential security interests.
- Also on services, in those sectors where Russia had undertaken specific commitments, where practicable, Russia will publish in advance of their adoption drafts of regulations of general application and will provide an opportunity for interested persons to comment on them. Moreover, Russia will provide a reasonable period of time between adoption of a regulation and its effective date.
- In addition to these general commitments on transparency, including providing for notice and comments on proposed measures, the need to provide reasons for decisions, and right of appeal, 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.

Further Work After Accession

- The United States will be monitoring Russia's implementation of its transparency commitments, bilaterally and through each of the WTO Committees and Councils.
- We will be reviewing the notifications that Russia is obligated to provide to ensure that they are complete and accurate.
- The United States will provide comments on proposed Customs Union Commission Decisions and Russia's laws and other measures related to trade and will encourage other interested persons to provide input as well.