

RUSSIA

TRADE SUMMARY

U.S. goods exports in 2014 were \$10.8 billion, down 3.3 percent from the previous year. Russia is currently the 29th largest export market for U.S. goods. Corresponding U.S. imports from Russia were \$23.7 billion, down 12.5 percent. The U.S. goods trade deficit with Russia was \$12.9 billion in 2014, a decrease of \$3.0 billion from 2013.

The stock of U.S. foreign direct investment (FDI) in Russia was \$14.6 billion in 2013 (latest data available), down from \$14.8 billion in 2012. U.S. FDI in Russia is led by the manufacturing, banking, and wholesale trade sectors.

Since early 2014, Russia's illegal actions in Ukraine and the Crimea have been condemned by the international community and resulted in the imposition of economic sanctions by Russia's major trading partners, including the United States. While the U.S. Government has curtailed bilateral engagement with Russia on trade and commercial issues in response to Russia's actions in Ukraine, we will continue to work through the World Trade Organization (WTO) to monitor Russia's trade and investment regime to ensure that Russia implements fully its WTO commitments. If circumstances change, and if warranted, USTR will reengage in bilateral discussions on Russia's market access barriers.

Membership in the World Trade Organization

On August 22, 2012, Russia became the 156th Member of the WTO, and on December 14, 2012, following the termination of the application of the Jackson-Vanik Amendment to Russia, the United States and Russia consented to the application of the WTO Agreement between the two countries. As a consequence, following nearly 20 years of negotiations, the United States and Russia are applying the terms and conditions of the WTO Agreement to each other. In June 2014, USTR issued its second annual "Report on WTO Enforcement Actions: Russia," and in December 2014, its second annual "Report on Russia's Implementation of the WTO Agreement." (These reports are available at <http://www.ustr.gov>).

Russia-Kazakhstan-Belarus Customs Union and the Eurasian Economic Union

On January 1, 2010, the Russia-Kazakhstan-Belarus Customs Union began implementing a customs union (the Customs Union or CU) by adopting a common external tariff (CET) with the majority of the tariff rates established at the level that Russia applied at that time. (When Russia joined the WTO in 2012, the CU adopted Russia's WTO schedule of tariff bindings.) On January 1, 2015, Russia, Kazakhstan, and Belarus continued their move toward regional economic integration with the establishment of the Eurasian Economic Union (EAEU) as the successor to the CU. Armenia joined the EAEU on January 2, 2015, and Kyrgyzstan has approved a "Roadmap" to join the EAEU.

A common Customs Code applies to the EAEU Member States, and the Member States abolished all customs posts on their internal borders, allowing for the free flow of most goods among the Member States. The Eurasian Economic Commission (EEC) is the supranational body charged with implementing external trade policy for Member States and with coordinating economic integration among Member States, having replaced the CU Commission in that role.

As a consequence of its membership in the EAEU, Russia's import tariff levels, trade in transit rules, nontariff import measures (*e.g.*, tariff-rate quotas, import licensing, and trade remedy procedures), and

customs policies (e.g., customs valuation, customs fees, and country of origin determinations) are based on the CU/EAEU legal instruments. On these and other issues involving goods, CU Agreements and CU/EEC Decisions establish the basic principles that are implemented at the national level through domestic laws, regulations, and other measures. CU Agreements and CU/EEC Decisions also cover issues such as border enforcement of intellectual property rights, trade remedy determinations, establishment and administration of special economic and industrial zones, and the development of technical regulations and sanitary and phytosanitary measures. The Treaty on the Functioning of the Customs Union in the Framework of the Multilateral Trading System of 19 May 2011 establishes the priority of the WTO rules in the CU/EAEU legal framework.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

U.S. companies cite technical regulations and related product testing and certification requirements as major obstacles to U.S. exports of industrial and agricultural goods to Russia. Russian authorities require product testing and certification as a key element of the product approval process for a variety of products, and only an entity registered and residing in Russia can apply for the necessary documentation for those product approvals. Consequently, opportunities for testing and certification performed by competent bodies outside Russia are limited. For example, U.S. companies have observed that the procedures associated with Russia's requirement to have a "supplier's declaration of conformity" are unnecessarily burdensome. This document is meant to confirm the safety of products for the environment and the health of people and animals. Manufacturers of telecommunications equipment, oil and gas equipment, and construction materials and equipment, in particular, have reported serious difficulties in obtaining product approvals within Russia. Other member countries of the EAEU are in the process of adopting a similar system.

Alcoholic Beverages – Conformity Assessment Procedures, Standards, and Labeling

Russia's regulation of the alcoholic beverages market has raised a number of concerns about consistency with the substantive requirements of the WTO TBT Agreement. At the national level, there has been a long-standing requirement to register alcoholic beverage products with the Federal Supervisory Service for Protection of Customers Rights and Human Well-Being (Rospotrebnadzor). Since 2013, FSR has maintained additional procedures establishing a notification requirement for both existing and new-to-market alcoholic beverages to be sold in the Russian market. Much of the information required by FSR in its notification appears duplicative of information provided to Rospotrebnadzor in the registration process. Furthermore, FSR provided a transition period of only four months between publication and implementation. In addition, the EEC is considering yet another level of registration, administered by at least three different government authorities, all of which appear to have the same objective of data registration, further duplicating in large part the registration and notification procedures applied at the national level. U.S. officials have raised concerns with the Russian government about these duplicative notification measures and the short timeframes for implementation (as well as the warehouse and distribution licensing practices discussed above), and have requested that Russia notify these measures to the WTO. The United States will continue to work to eliminate the completion of the regulation of alcoholic beverages by eliminating duplicative conformity assessment procedures administered by different agencies and to ensure Russia's alcoholic beverages control regime is consistent with its WTO commitments.

The draft CU "Technical Regulation on Alcoholic Product Safety" also introduces burdensome and unique requirements to label all alcoholic beverages with an expiration date, or include a label indicating that "the expiry date is unlimited if the storage conditions are observed." U.S. stakeholders note that the proposed requirement does not provide accurate or beneficial information for products containing more than ten percent alcohol, because these products do not expire. Furthermore, the proposed expiration date

requirement appears inconsistent with international guidelines which exempt beverages containing ten percent or more by volume of alcohol from such date marking requirements. The United States will encourage Russia to eliminate this requirement for alcoholic beverages containing more than ten percent alcohol by volume, and urge Russia to adopt international standards or guidelines for such products.

The proposed technical regulation gives rise to other issues that could adversely affect U.S. exports of alcoholic beverages, including unclear definitions for wine and wine beverages and a requirement that whiskey be aged no less than three years. The United States will continue to work with Russia on this matter in the context of the WTO TBT Committee.

Pharmaceuticals

In December 2014, the Russian Duma approved amendments to the Federal Law on Circulation of Medicines, including a definition for biologics. The United States will continue to monitor this issue to determine whether specific market access concerns arise. In addition, U.S. stakeholders have raised concerns over mandatory testing of clinical trial samples, asserting that Russia's requirements lack clarity and are too vague to implement. In addition, the Ministry of Industry and Trade proposed a draft decree on September 3, 2014, which would bar foreign drugs from competing in government tenders if there are two equivalent drugs available from Russian or other EAEU Member States. Lastly, Russia requires mandatory Russian patient participation in clinical trials. These requirements are often onerous for companies to meet, especially for drugs for rare medical conditions, where by definition, population samples are low.

Medical Devices

According to U.S. stakeholders, shifting registration requirements for medical devices has led to confusion and delays in bringing products to the Russian market. In 2012, Russia introduced new registration procedures requiring that all medical devices previously approved for use in Russia be re-registered with Roszdravnadzor, the Russian regulatory body in charge of medical devices, by the end of 2013. Due to objections from the U.S. Government and stakeholders concerning the short deadlines, as well as to delays in re-registration, the deadline was pushed back to January 1, 2017. Roszdravnadzor is again revising its medical device registration system based on EAEU requirements. The EAEU requirements contain inadequate definitions, insufficient transition periods and duplicative reporting requirements, raising questions for U.S. companies as to when and how to properly register medical devices with the Russian government.

Transparency

The United States has continued to emphasize to Russia the importance of timely notifications to the WTO of draft technical regulations so as to enable other WTO Members to provide comments prior to finalization. Although Russia has notified numerous technical regulations to the WTO, it appears to be taking a narrow view regarding the types of measures that need to be notified. Consequently, its notifications in 2014 may not reflect the full set of technical regulations or conformity assessment procedures that Russia or the EEC proposed that year and that should have been notified under the WTO TBT Agreement. For example, Russia has not notified measures related to new registration requirements for alcoholic beverage products; amendments to its Federal Law on Circulation of Medicines; or certain technical standards and regulations governing the required installation of GLONASS-compatible navigational systems in civil aircraft. The United States has used a variety of fora, including WTO TBT Committee meetings and inquiry point requests, to urge Russia to notify proposed technical regulations and conformity assessment procedures. To date, Russia has followed up by notifying some proposed technical regulations and conformity assessment procedures in a reasonable period of time. In addition, the United States has raised concerns about the comment periods provided by Russia or the EEC, as appropriate, on draft technical regulations to

ensure that the United States and interested parties have adequate time to comment. The United States will continue to urge Russia to identify and use a single inquiry point and to notify at an earlier stage proposed technical regulations and conformity assessment procedures (including proposed amendments) that may have a significant effect on trade. The United States also continues to remind Russia of its obligation to take into account comments submitted by other WTO Members.

Sanitary and Phytosanitary Barriers

Russia is obligated, like all other WTO Members, to ensure that its SPS measures comply with the requirements of the SPS Agreement (*e.g.*, they are based on scientific principles, not maintained without sufficient scientific evidence, and are only applied to the extent necessary to protect human, animal, or plant life or health). Russia must also comply with its commitments on SPS matters contained in its protocol of accession to the WTO. Nevertheless, Russia often uses SPS measures to block imports of U.S. agricultural products in a seemingly arbitrary and discriminatory manner. Russia's SPS standards are often overly prescriptive with detailed requirements on facilities and the method of production rather than focusing on the wholesomeness of the product. In some cases, Russia's minimum residue levels (MRLs) differ from international standards, but Russia does not appear to have provided risk assessments that conform to international guidelines.

Beef and Beef Products

Currently, U.S. producers may not export to Russia deboned beef, bone-in beef, and beef by-products from cattle under the age of 30 months, and Russia also maintains a ban on imports of ground beef from cattle of any age purportedly to mitigate the risk of bovine spongiform encephalopathy (BSE). Moreover, Russian BSE requirements effectively preclude any U.S. cooked beef from qualifying for importation into Russia. The United States will continue to urge Russia to open its market fully to U.S. beef and beef products based on science, the OIE guidelines, and the U.S. BSE negligible risk status.

In addition, Russia has adopted a zero tolerance for beta-agonists and trenbolone acetate, standards that are more stringent than Codex's MRLs for beef. Russia does not appear to have provided risk assessments that conform to Codex guidelines for any of these products. Although the United States has established a "Never Fed Beta Agonists Program," the Russian prohibition on these hormones has deterred U.S. exporters from re-entering the Russian market. These measures remain more stringent than the relevant international standards and a market access barrier of concern to the United States. The United States will continue to press for the removal of these barriers to exports of U.S. beef and beef products.

Milk and Milk Products

Despite concluding negotiations in 2014 on a United States-CU veterinary certificate for heat-treated milk products, Russia has effectively banned the importation of U.S. dairy products since September 2010, when Rosselkhoznadzor (Russia's Federal Service for Veterinary and Phytosanitary Surveillance) instructed customs officials to allow shipments only from exporters on Rosselkhoznadzor-approved lists. This directive appears inconsistent with Russia's WTO commitment and with EAEU legislation requiring the elimination of the requirement that a foreign producer be included on Rosselkhoznadzor lists to be eligible to export dairy products to Russia. The United States continues to work with Russia and its EAEU partners to eliminate the listing requirement for exporters of low-risk products (*e.g.*, dairy).

Pork and Pork Products

Russia maintains near-zero tolerance levels for tetracycline-group antibiotics, a standard that is more stringent than Codex. Russia agreed as part of its WTO accession commitments to submit a risk assessment

for tetracycline antibiotics conducted in accordance with Codex methodology or align its tetracycline standards with Codex standards. However, to date, Russia has yet to pursue either approach. In addition, the adverse impact on U.S. exports of beef and beef products resulting from Russia's adoption of a zero tolerance for both beta-agonists and trenbolone acetate (described above) has similarly deterred U.S. pork and pork products producers from re-entering the Russian market. These measures remain a market access barrier of concern to the United States. The United States will continue to press for the removal of these barriers to exports of U.S. pork and pork products.

Russia also requires U.S. pork to be frozen or tested for trichinosis, a requirement that constitutes a significant impediment to exports of U.S. fresh and chilled pork to Russia. The United States does not consider these requirements related to trichinosis to be necessary, because U.S. producers maintain stringent biosecurity protocols that limit the existence of trichinae in the United States to extremely low levels in commercial swine. The United States will continue to work with regulatory authorities in Russia to resolve this trade concern.

Poultry

On January 1, 2010, Russia banned the importation and sale of chicken that had been treated with chlorine to reduce the threat of pathogens. This measure essentially halted all imports of U.S. poultry into Russia. As a result of bilateral negotiations, trade in poultry products resumed in September 2010 with exports of non-chlorine-treated poultry. Russian regulations also place an upper limit on the amount of water content in chilled and frozen chicken, despite calls by stakeholders and the U.S. Government to adopt the alternative of requiring labeling regarding water content. In addition, Russia continues to ban the importation and sale of certain frozen poultry for use in baby food and special diets. Russia has not yet provided the United States with risk assessments that conform to international standards to support these various regulations related to poultry. The United States will continue to work with regulatory authorities in Russia to resolve these trade concerns.

Pet Food and Animal Feed

Russia requires a veterinary certificate to ship pet food and animal feed to Russia, as well as a letter from the producer either attesting to the absence of feed derived from agricultural biotech, or a copy of the agricultural biotech registration provided by the Russian Ministry of Agriculture. Additionally, Russia restricts the use of most U.S. ruminant-origin ingredients in pet foods and animal feeds, further impeding the access of U.S. exports to this market.

Agricultural Biotech

Although Russia has established a system for the approval of agricultural biotech food and feed products, the United States continues to have concerns with the implementation of this system, including Russia's requirements that registrations for agricultural biotech feed products are time limited and labeling of agricultural biotech products. Registrations for food are effective for an unlimited period, while feed registrations are granted for five years. Each application fee (the first for both food and feed and the second for re-registration of feed events) costs on average \$100,000. The fee is unnecessarily onerous.

Labeling requirements, governed by technical regulations of the EAEU, mandate labeling of all food that contains more than 0.9 percent agricultural biotech products, wrongly implying that these products are unsafe. A technical regulation for the labeling of agricultural biotech feed has not yet been adopted by the EAEU, leaving feed subject to the Russian regulations, creating further confusion for suppliers. Additionally, the United States is monitoring implementation of a system to approve agricultural biotech products for cultivation. Although Russia approved a framework of rules for the registration of agricultural

biotech products for cultivation to start in July 2014, in June 2014, the Government delayed this start by three years, to 2017. Because the registration process takes five to six years, cultivation of agricultural biotech crops in Russia cannot be expected before 2023-2024, delaying any opportunity for the trade of agricultural biotech seeds. The United States has encouraged Russia to address these specific concerns, as well as to promote greater cooperation on agricultural biotech generally.

Zero Tolerance for Veterinary Drugs and Pathogens

Russia maintains a zero tolerance policy for residues of those veterinary drugs that Russia has not approved, many of which are commonly used in U.S. animal production. Findings of veterinary drug residues during Russian border inspection of U.S. products have resulted in trade disruptions, including the de-listings of U.S. beef, pork, and poultry facilities as approved sources for exported product to Russia. Russia similarly maintains a zero tolerance policy for all food products, including raw meat and poultry, for *Salmonella*, *Listeria*, coliforms, and colony-forming units of aerobic and anaerobic bacteria. Such a policy is unwarranted with regard to raw products, because it is generally accepted by food safety experts and scientists that these pathogens are often closely associated with raw meat and poultry products and cannot be removed from the product. Russia has failed to provide an adequate risk assessment to justify its more stringent standards.

Veterinary Certificates

Russia and the EAEU require veterinary certificates to include broad statements by U.S. regulatory officials that the products satisfy EAEU sanitary and veterinary requirements, including meeting certain chemical, microbiological, and radiological standards. This requirement is problematic because many EAEU sanitary and veterinary requirements appear excessively restrictive and appear to lack scientific justification.

Systemic Issues

U.S. exporters continue to face systemic issues related to the export of agricultural products to Russia. Russia requires export certificates for products for which certifications are unnecessary. For example, Russia requires phytosanitary attestations for shipments of certain plant-origin products destined for further processing, such as corn for popcorn, even though such processing removes any potential risk. Likewise, Russia requests U.S. exporters to submit certifications stating that the United States is free from various livestock diseases, even where there is no risk of transmission from the product in question. The United States is also concerned with Russia's implementation of WTO obligations to remove certain veterinary control measures for lower risk products.

Russia, pursuant to an EEC, allows imports only from facilities on a list approved by all EAEU Member States. The United States has worked with Russian and other EAEU authorities to narrow the scope of products subject to this listing requirement, with some success, but much of this work remains ongoing. Pursuant to a bilateral agreement signed in November 2006, Russia agreed to grant U.S. regulatory officials the authority to certify new U.S. facilities and U.S. facilities that have remedied a deficiency. In practice, however, Russia has not consistently recognized the authority of U.S. regulatory officials to certify additional U.S. facilities, and there have been delays in responding to U.S. requests to update the list of approved U.S. facilities. The EAEU has competence for facility inspections and approvals. The United States worked with Russia and EAEU authorities to negotiate a new EAEU inspection regulation that allows the EAEU to accept the certification of additional facilities provided by SPS authorities in third countries that certify new facilities. However, implementation of this regulation has lacked predictability and transparency, because EAEU Member States often continue to insist on conducting their own inspections prior to approval of a facility, without providing any rationale. The United States will work closely with Russia to ensure that the EAEU inspection regulation is fully implemented.

IMPORT POLICIES

On August 6, 2014, Russia issued an order banning certain agricultural imports from the United States, the European Union, Canada, Australia, and Norway for a period of one year. The products banned include certain beef, pork, poultry, fish and seafood products, fruits and nuts, vegetables, some sausages, and prepared foods. In calendar year 2013, the United States shipped \$1.3 billion of agricultural and related food products (including fish and forestry products) to Russia, and of this amount approximately 55 percent is attributable to products that are now restricted. The United States has a relatively small market share in Russia, accounting for only approximately 4 percent of Russia's total agricultural imports in 2013 (most recent data available). In addition to the ban on agricultural products, in November 2014, Rosselkhoznadzor began subjecting shipments from Belarus to Kazakhstan to additional scrutiny, effectively preventing banned goods from transiting through Russia.

Tariffs, Customs Issues and Taxes

Although Russia implemented the second round of annual tariff reductions in August 2014 as required by its WTO commitments, the implementation of some of its other tariff commitments has raised concerns. One source of concern stems from Russia's implementation of decisions of the EEC (the EAEU body responsible for administering the CET). In particular, pursuant to those decisions, Russia appears to have changed the type of duty on certain tariff lines by augmenting the *ad valorem* rates with an additional minimum specific duty (thereby creating a "combined tariff"). Under WTO rules, the resulting combined tariff must not exceed Russia's bound tariff commitments. However, Russia has not made clear to WTO Members whether the combined tariffs are within the limits of its bound tariff commitments. In addition, although Russia joined the Information Technology Agreement on September 13, 2013, it has not yet notified the WTO of the requisite modifications to its WTO tariff schedule to reflect its tariff elimination commitments. The United States continues to pursue these issues in the WTO to ensure that Russia is not exceeding its bound rates.

A requirement that all customs duties, excise taxes, and value-added taxes on alcohol be paid in advance of customs entry using a bank guarantee and deposit is a longstanding customs challenge faced by importers of alcoholic products. Russian Customs often requires bank guarantees far in excess of the actual tax liability of the covered goods, especially for lower value products. Russian law permits the Customs Service to set the bank guarantee at the highest amount that could be due if the actual amount due cannot be calculated; however, stakeholders claim that information sufficient to calculate a more accurate (and usually lower) bank guarantee amount is generally available to Russian Customs. In addition, stakeholders have reported that refunds of these guarantees are sometimes delayed for as long as seven months. The advance payment requirement for duties and taxes, and the long delay in bank guarantee refunds, may limit trade volumes due to the amount of money that importers must dedicate to guarantees. Furthermore, some Russian customs posts have interpreted EAEU rules to require both a CU bank guarantee as well as a Russian bank guarantee, effectively establishing a double bank guarantee.

U.S. stakeholders have raised concerns that the practice of Russian Customs of assessing tariffs on the royalty amounts for the domestic use of imported audiovisual materials, such as TV master tapes, represents a form of double taxation because royalties are also subject to withholding, income, value-added (VAT), and remittance taxes. U.S. consumer goods companies have also reported that Russian customs authorities calculate customs duties based on the value of the product plus the amount of royalty payments that the Russian subsidiary must pay to the overseas parent company for the use of the parent company's trademarks. U.S. companies contend that this methodology leads to inflated valuations for tariff purposes. Of further concern is Russia's rebate of VAT on payments for the "right to use" cinema products. The VAT payments on royalties paid for screening "Russian" movies (as defined in the Russian tax code) can

be rebated but not VAT payments on royalties for screening U.S. (or other non-Russian) films. This practice increases the cost of screening U.S. films.

U.S. stakeholders has also raised concerns about Russia's copyright levy system. 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, and photocopy machines). Those levies are provided to an accredited royalty collecting society for distribution to rights holders. 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 also appear to differ. Russian Customs 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 based on sales, and self-notify. Further, although Russia accredited a collecting society to undertake the collection of levies and distribution of royalties, U.S. stakeholders have raised concerns regarding the lack of transparency in this process. The legitimacy of that collecting society has also been challenged in the Russian courts, creating uncertainty as to its credibility and reliability. U.S. officials have raised concerns about these issues with Russia's Ministry of Culture and the Ministry of Economic Development and Trade.

U.S. stakeholders also reports that Russia does not publish all regulations, judicial decisions, and administrative rulings of general application on customs matters. In addition, U.S. exporters report that customs enforcement varies by region and port of entry, and that frequent changes in regulations are unpredictable, adding to costs and delays at the border. In its WTO accession protocol, Russia committed to publish all trade-related measures and implement notification, public comment, and other transparency requirements for a broad range of trade-related measures. U.S. officials have pressed Russia to meet these important WTO transparency requirements.

Import and Activity Licenses

Although Russia simplified its licensing regimes when it became a WTO Member, the processes to obtain an import or activity license remain burdensome and opaque. For example, in its WTO accession protocol, Russia committed to reform its import licensing regime for products with cryptographic functionalities ("encryption products"). However, U.S. exporters report that Russia continues to limit the importation of encryption products through the use of import licenses or one-time "notifications." Issues have been raised regarding the process for importing consumer electronic products considered to be "mass market" products under the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (the "Wassenaar Arrangement"). A simple notification process is supposed to apply to these products; however, the EAEU regulations governing the definition of "mass market" products do not accurately reflect the definition of such products under the Wassenaar Arrangement or Russia's WTO commitments. Moreover, the Russian requirements to meet the definition of "mass market" are burdensome and appear to go beyond what is required under the EAEU regulations. As a result, U.S. exports of encryption products, particularly common consumer electronic products, continue to be inhibited.

In addition, in 2012, Russia amended the regulations governing activity licenses for the distribution, among other activities, of encryption products. In doing so, Russia reasserted control over many consumer electronic products that had previously not required an activity license to distribute. Because an activity license to distribute encryption products is required to obtain an import license for encryption products, the 2012 amendments impose an additional indirect burden on the importation of such products.

When Russia became a WTO Member, it abolished the requirement to obtain an import license for alcohol. However, Russia's Federal Service for the Regulation of the Alcohol Market (FSR) still requires an activity

license to warehouse and distribute alcohol in Russia, and stakeholders assert that the difficulty and expense involved in obtaining this license is disruptive to trade. The process is burdensome and expensive, and the license once issued is valid for only five years. In fact, several U.S. exporters have experienced months of delays and expended thousands of dollars seeking to bring their warehousing practices into conformity with relevant regulations after inspections raised compliance issues

Furthermore, alcohol distributors have raised concerns about seemingly onerous and arbitrary requirements of Russian Order #59 governing the conditions for the storage of alcoholic beverages and which must be met in order to obtain an activity license. For example, Order #59 prohibits the storage of different types of alcohol on one pallet; precludes the storage of other goods with alcohol products and requires certificates from third-party government agencies that require a great deal of time and effort to obtain. Notwithstanding revisions in 2012 that improved slightly the terms of conditions imposed by Order #59, concerns remain. The United States has sought clarification regarding the specificity of warehouse construction requirements, the stringency of warehouse inspections, and temperature controls, which appear to exceed international standards. In addition, Russian importers of U.S. products have complained that FSR is denying their applications for a warehouse license on spurious grounds apparently to limit the number of importers in this sector. The United States has raised concerns about Russia's warehousing requirements but has yet to receive a response from the Russian government. The United States will continue to work to ensure that Russia's alcohol warehouse licensing provisions are WTO consistent, transparent and not unnecessarily burdensome. In addition, Russia (and the EAEU) imposes various (and duplicative) technical requirements governing the alcoholic beverage sector (see discussion on Technical Barriers to Trade).

Import licenses and/or activity licenses to engage in wholesale and manufacturing activities are also necessary for the importation of pharmaceuticals, explosive substances, narcotics, nuclear substances, equipment to be used at nuclear installations and corresponding services, hazardous wastes (including radioactive waste), and some food products (*e.g.*, unprocessed products of animal origin). The process for obtaining these licenses is often unpredictable, nontransparent, time-consuming and expensive. Similarly, Russia's opaque and burdensome activity licensing regime allows it to control access to many sectors, such as mining. U.S. officials have raised concerns about these import licensing issues with Russian and EAEU officials.

Automotive and Vehicle Recycling Fees

On September 1, 2012, Russia introduced a "recycling fee" on automobiles and certain other wheeled vehicles. Under the new law, importers and manufacturers in Russia of automobiles and certain other wheeled vehicles pay a fee, determined by the age, total mass and engine size of the vehicle, intended to cover the cost of recycling the automobile at the end of its useful life. Rates range from 2,000 rubles to 5.5 million rubles (approximately \$37 to \$101,000) for new vehicles and from 3,000 rubles to 6 million rubles (approximately \$56 to \$111,000) for used vehicles. Originally, automobile manufacturers located in Belarus, Kazakhstan, and Russia were not required to pay this fee if they agreed to establish procedures designed to dispose of a vehicle at the end of its useful life. Russian officials justified the new program on environmental grounds, and promised that the fee would be temporary. The United States, as well as other WTO Members, raised concerns about the consistency of this program with Russia's WTO obligations. On October 10, 2013, the EU requested the establishment of a WTO dispute settlement panel. On October 21, 2013, President Putin signed a law extending the recycling fee to domestic automobile manufacturers, regardless of any producer's commitment to recycle its vehicles. Vehicles imported from Kazakhstan and Belarus are also now subject to the recycling fee. However, concerns remain regarding the overall level and calculation of the fee for heavy duty commercial vehicles. Although a WTO dispute settlement panel has been established, the members of the panel have not been selected.

Import Substitution Policies

In 2014, the Russian government accelerated its promotion of import substitution and called for more local production across a variety of sectors. Government officials, including President Putin, have signaled that import substitution is now a central tenet of Russian economic policy. The medical device and pharmaceutical industries (see below) are examples of sectors in which localization policies have been developed and implemented over several years. In addition, there are currently sectorial import substitution proposals for defense, health care, consumer goods, oil and gas equipment, information technology (IT), light industry, textiles, and agriculture. The preferred mechanism for implementing these policies appears to be through government procurement, which may also be extended to state-owned enterprise (SOE) procurement in 2015 (see discussion below on Government Procurement).

Russian government officials have targeted various sectors for localization. After the import ban on certain agriculture products (see above) was implemented, government officials pressed for greater food self-sufficiency. For heavy machinery, the Minister of Industry and Trade has called for increasing the share of machinery and tool equipment produced domestically from the current 10 percent to 60 percent by 2020. Pharma 2020, the government's pharmaceutical industry development plan, calls for Russian manufacturers to account for at least 50 percent of total domestic sales (based on value) by 2020. Other healthcare-related policies that discriminate against U.S. exporters in favor of domestic producers include a reimbursement system that allows only domestic companies to request annual adjustment of prices registered by the Ministry of Health, and a 15 percent price preference for Russian (and Belarusian) companies in federal and municipal procurement auctions. Russia also has proposed a ban on government procurement of certain medical devices manufactured outside the EAEU or by a company which does not have an agreement on the localization of production in Russia. Opening market access for non-Russian pharmaceutical firms will remain an ongoing challenge in light of Russia's desire to develop an indigenous industry.

The Ministry of Economic Development and the Ministry of Industry and Trade set the parameters for determining what constitutes domestic telecommunications equipment, and therefore what equipment could be used in specified applications or projects. The localization level depends on the scope of the research activities and technological operations carried out in Russia, resulting in localization levels from 60 percent to 70 percent. Moreover, to qualify, a company manufacturing telecommunications equipment must be a Russian resident and at least less 50 percent owned by a Russian party or entity. Also, the manufacturer must have the legal rights to the technologies and software, possess its own production base, manufacture printing boards, and carry out final assembly of the telecommunications equipment in Russia.

Russia developed a global navigation positioning technology called GLONASS as an alternative to the U.S. GPS system. Russia's Ministry of Transport issued a rule in March 2012 requiring that GLONASS-compatible satellite navigation equipment must be installed on all Russian-manufactured aircraft, with varying deadlines depending on the use, age, and size of the aircraft, but on all aircraft not later than 2016. In addition, any foreign-manufactured aircraft listed in a Russian airline's Air Operator Certificate must have GLONASS or GLONASS/GPS compatible satellite navigation equipment installed by January 1, 2018 or earlier, depending on the size of the aircraft. Because U.S. aircraft are not currently configured for GLONASS, modifications to the aircraft would be necessary to meet this new rule.

EXPORT POLICIES

Although Russia has eliminated export duties on a few products, it maintains export duties on 240 types of products for both revenue and policy purposes. For example, a variety of products are subject to export tariffs, such as certain fish products, oilseeds, fertilizers, non-ferrous metals, hides and skins, and wood products. Russia has indicated that it intends to eliminate gradually most of these duties, except for products deemed strategic, such as hydrocarbons and certain scrap metals. Government Resolution No. 705, dated

July 25, 2014, decreased export duties on certain types of fish, seafood, oilseeds, wood products, and some other non-agricultural products. Although Russia also committed to decrease export duties on timber to levels between 5 percent and 15 percent, domestic industry pressure continues to delay implementation.

On December 25, 2014, the Russian government approved Resolution No. 1495, “On introduction [of] changes into export customs tariff rates for commodities, exported from the Russian Federation outside of the boundaries of states - members of the Customs Union Agreement.” As a result, starting February 1, 2015, and ending June 30, 2015, an export tariff will be imposed on wheat in the amount of 15 percent of the customs value plus 7.5 Euros, but not less than 35 Euros, per metric ton. Such export taxes can distort trade flows by limiting supplies of key staple commodities, undermining global food security and providing an incentive for trade distorting self-sufficiency policies in net importing countries.

Historically, Russia established high export duties on crude oil to encourage domestic refining. However, Russia committed to cut its export duty on oil and oil products to the level of Kazakhstan as part of the process to establish the EAEU. Amendments to the Tax Code signed into law on November 24, 2014, will gradually reduce export duties on oil and light oil products and increase the mineral extraction tax and export duties for refined products to compensate for the resulting loss of federal budget revenues. The change will make domestic crude more expensive for domestic refiners. At the same time, Russia continues to implement a variety of *ad hoc* tax breaks designed to encourage the development of resources that are difficult to extract. Separately, the government maintains a 30 percent export tax on natural gas.

Uncertainty in the availability of Russian ferrous scrap on the world market continues to cause concern among U.S. stakeholders of possible market distortions. In February 2015, the Russian government introduced a proposal that could temporarily ban the export of scrap metal in order to counteract recent domestic price increases. Moreover, stakeholders claim that Russia has placed higher rail freight rates on certain raw materials intended for export, contrary to its commitment to eliminate discrepancies in such rates by July 1, 2013. In addition, it has not published any changes to rates or notified the WTO of elimination of differential freight rates.

SUBSIDIES

Gazprom, a Russian state-owned company that currently has a monopoly on exports of pipeline natural gas produced in Russia, charges higher prices on exports of natural gas than it charges to most domestic customers. U.S. stakeholders have concerns that Russia’s natural gas pricing policies effectively operate as a subsidy to domestic industrial users in energy-intensive industries such as the steel industry and the fertilizer industry (which uses natural gas as an input).

GOVERNMENT PROCUREMENT

Although not yet a signatory to the WTO Agreement on Government Procurement (GPA), as part of its WTO accession, Russia committed to initiate negotiations for accession to the GPA by 2016. Russia became an observer to the GPA in May 2013. When it joined the WTO, Russia committed that its government agencies would award contracts in a transparent manner according to published laws, regulations, and guidelines.

As discussed below, Russia has adopted certain local content requirements which it argues are not subject to the national treatment obligations of the General Agreement on Tariffs and Trade (GATT) and General Agreement on Trade in Services (GATS) because they relate to government procurement. Given the breadth of the government’s role in the economy and the scope of “buy Russia” policies, such measures impede trade because U.S. exports are excluded from a broad section of the Russian economy.

In 2014, Russia adopted three “buy Russia” requirements. First, on March 25, Russia’s Ministry of Economic Development established a 15 percent preference for goods (including pharmaceuticals) of Russian or Belarussian origin in purchases for government use (MED Order 155, March 25, 2014). Second, Russia adopted Resolution #656 on July 14 banning states and municipalities from purchasing foreign-made automobiles, other vehicles and machinery. Foreign-brand automobiles that meet the localization requirement are not restricted. Third, the Russian government has also banned procurement of a broad array of foreign light industrial goods (Decree No. 791 issued August 11, 2014) that are produced outside Russia or the EAEU Member States.

There are at least seven proposed or draft measures currently under consideration to implement “buy Russia” requirements. The Ministry of Industry and Trade proposed four such measures, in the form of draft resolutions: (1) to restrict foreign pharmaceutical manufacturers from participating in government drug tenders if two equivalent drugs are produced in Russia or EAEU Member States; (2) to ban purchases by major state-owned enterprises (SOEs) of imported automobiles, metal products, and heavy machinery except those goods with no equivalents made in Russia; (3) to require SOEs to use domestic software, possibly giving a 15 percent price preference; (4) to restrict government and SOE purchases to a specific list of medical devices produced in the EAEU when Russian supply is insufficient to meet national needs. Other ministries also proposed “buy Russia” restrictions in 2014. The Ministry of Communications proposed restricting government procurement of foreign software products to only those purchased from companies listed on special register of Russian or EAEU firms. The Ministry of Economic Development proposed amending the Federal Public Procurement Law to prohibit government procurement of foreign-made goods and services if there are two or more domestic producers also bidding; this proposal is in addition to the aforementioned 15 percent price preference already provided to EAEU firms. Finally, the Russian Ministry of Agriculture proposed a government order that would ban all government purchases of imported agricultural products, with the intention of persuading all EAEU Member States to follow suit.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Russia remained on the Priority Watch List in the 2014 Special 301 Report. The Report identifies online piracy, inadequate enforcement, counterfeiting and lack of transparency as some of the significant obstacles to adequate and effective protection of intellectual property rights (IPR) in Russia. U.S. and multinational companies continue to report counterfeiting of trademarked goods, especially of consumer goods, distilled spirits, agricultural chemicals and biotech products, and pharmaceuticals.

While Russia’s IPR legislation has been strengthened as a result of its WTO accession, and physical counterfeiting appears to be on the decline, digital copyright violations for films, videos, sound recordings and computer software remain a significant problem, particularly online. On November 23, 2014, President Putin signed into law an expansion of the anti-piracy provisions to cover all copyright protected material except photographs. The United States will monitor closely evolving laws and practices related to online piracy, as Russia’s record of enforcement of copyright laws is inconsistent and often unclear.

In December 2012, the United States and Russia negotiated the United States-Russian Federation IPR Action Plan, under the auspices of the United States-Russian Federation Intellectual Property Working Group (IPR Working Group). That Plan sets forth concrete proposals to address weaknesses in Russia’s IPR regime that create obstacles to U.S. exports and investment. Due to the reduction in bilateral engagement with the government of Russia following the Ukraine crisis, there were no meetings of the IPR Working Group in 2014.

SERVICES BARRIERS

Russia's services market is largely open to U.S. services suppliers, including in areas such as financial services, education, legal services, and distribution.

However, specific problems remain in particular areas. Russia continues to prohibit foreign banks from establishing branches in Russia. In addition, the ability for foreign services providers to provide services to public utilities and certain energy-related services remains limited. Although Russia raised the limit on foreign capital in the insurance sector from 25 percent to 50 percent, a lack of transparency regarding the issuance of licenses, among other issues, hinders foreign investment in the market. Stakeholders report that the process for an individual or a company to obtain a license to provide a service remains difficult, and limitations on the form of commercial establishment adversely affect some sectors. For example, Russia has not yet amended its legislation to reflect its WTO commitment to remove the limitation on sales of biologically active substances to pharmacies and specialized stores only.

On July 21, 2014, President Putin signed Federal Law No. 242-FZ, "On Amendments to Certain Legislative Acts of the Russian Federation with Regard to the Clarification of the Processing of Personal Data in Informational-Telecommunications Networks" requiring companies to store personal data of Russian citizens only on servers physically located within Russia by September 1, 2015. This law was originally expected to enter into force on September 1, 2016, but the law was amended to advance by one year the date of implementation. This law could affect a broad range of cross-border services (*e.g.*, online airline ticket and hotel booking services and social networks).

INVESTMENT BARRIERS

Russia has made improving its investment climate a priority, but U.S. and other foreign investors continue to cite issues, such as corruption, which act as barriers to investment. Russia's foreign investment regulations and notification requirements can be confusing and contradictory, which has an adverse effect on foreign investment. In addition, notwithstanding the creation of an Anti-Corruption Council and the enactment of significant anticorruption legislation, various internationally-recognized measures of corruption suggest there has been little progress to date in reducing corruption. Further obstacles to investment in Russia include inadequate dispute resolution mechanisms, weak protection of minority shareholder rights, the absence of requirements for all companies and banks to adhere to accounting standards consistent with international norms, and problems with enforcing the rule of law.

The 1999 Investment Law permits discrimination against foreign investors in a number of areas, including for "the protection of the constitution, public morals and health, and the rights and lawful interest of other persons, and the defense of the state." These broadly defined provisions give Russia considerable discretion in prohibiting or limiting foreign investment in a potentially discriminatory fashion. The Investment Law included a "grandfather clause" that stipulates that existing (as of 1999) "priority" investment projects with foreign participation of over 25 percent will be protected from certain changes in the tax regime or new limitations on foreign investment. The law defines "priority" projects as those with a foreign charter capital of more than \$4.1 million and with a total investment of more than \$41 million. However, the lack of corresponding tax and customs regulations means that any protection afforded by this clause is, at most, very limited.

On October 15, 2014, President Putin signed a law "On Mass Media," which restricts foreign ownership of any Russian media company to 20 percent. The previous law applied a 50 percent limit only to Russia's broadcast sector. The new rules took effect on January 1, 2015, and media owners have until February 1, 2017 to adjust their ownership structures. U.S. stakeholders have also raised concerns over limits on direct

investments in the mining and mineral extraction sectors that discriminate against foreign companies, as well as a non-transparent and unpredictable licensing regime that can lead to arbitrary state actions.

Russia's Strategic Sectors Law (SSL) establishes a list of 45 "strategic" sectors or activities in which purchases of "controlling interests" by foreign investors must be preapproved by Russia's Commission on Control of Foreign Investment. In February 2014, three activities were added to the law involving protection of transport infrastructure and vehicles as well as transport of security forces. On November 4, 2014, additional amendments were adopted to regulate foreign investment by broadening the universe of companies, investments and transactions covered by the SSL. For example, there is a new requirement that foreign investors obtain approval for the acquisition of a strategic business' main production assets if the value of the property exceeds 25 percent of the book asset value of the company. In addition, unrelated international organizations, foreign states, and companies they control will now be treated as a single entity for the purpose of the law, and their joint participation in a strategic business will be subject to the restrictions as if they were a single foreign entity.

Privatization

Russia is slowly pursuing steps to privatize state assets, both to increase market forces in the economy and to raise revenue for the federal budget. However, the government maintains a list of 176 companies that are either wholly or partially owned by the Russian state and that cannot be privatized due to their national significance. This list includes 128 federal unitary enterprises (100 percent government-owned) and 48 joint stock companies (varying percentages of state ownership). The government's privatization plans with respect to other companies are proceeding slowly, the last privatization plan having been published in January 2013. For example, on December 1, the government of Russia announced plans to sell a 19.5 percent stake in Rosneft (leaving it with a 50 percent stake), but the asking price was 60 percent above the share price at the time of the announcement, making the sale unlikely. In addition, state-owned enterprises (SOEs) are frequently sheltered by government funding. Furthermore, in December 2014, the government reversed the prohibition against senior government officials serving on SOE boards, further tilting the playing field in favor of SOEs by re-introducing a government/political voice in SOE's decision-making process.

In addition to SOEs, there are currently five state corporations in Russia (Rosatom, VEB, Rosnano, Fund for Communal Housing, and Rostec). While private enterprises are technically allowed to compete with these state corporations on the same terms and conditions, in practice, the market is skewed in favor of state corporations. For example, state corporation holding structures and management arrangements (*e.g.*, senior government officials as board members) make it difficult for private enterprises to compete because of the preferential treatment accorded to state corporations. Furthermore, specific legal constructions can result in preferential treatment of state corporations. State corporations have no unified legal framework, as they are established and operate under legislation unique to each SOE, unlike private corporations. Such a case-by-case approach leaves much scope for discretion and lobbying by company insiders at the expense of private enterprises.

Taxes

Russian and U.S. leasing companies have reported that the VAT assessed on inputs for exported final products is often not refunded, and that they often must resort to court action to obtain their reimbursements. Leasing companies have reported that VAT refunds on exports are the source of significant fraud, and actions to prevent fraud make it even more difficult for legitimate exporters to obtain refunds. In addition, the companies have reported that, in some cases, local tax inspectorates have initiated audits and attempted to seize their bank accounts, thus forcing exporters to seek very expensive and time-consuming court enforcement.

U.S. companies have also raised concerns about Russian tax authorities' scrutiny of payments that cross Russia's border, but remain, for tax purposes, in the legal structure of the same Russian company. This tax issue has arisen chiefly in two contexts: (1) when a multinational company transfers an employee temporarily to the company's Russian office from another office outside Russia; and (2) in intra-company payments for the use of intellectual property. Under internationally accepted accounting standards, these normal business practices are handled as an intra-firm payment from one office to the other, or to the headquarters in the case of royalty payments. However, Russian tax inspectors have in the past disputed such expenses as "economically unjustified" and, consequently, not permissible under the Russian Tax Code. In consultation with foreign firms, Russia developed and adopted a new law on transfer pricing. Domestic transactions are now subject to transfer pricing regulations if the aggregate annual income from the parties exceeds 1 billion rubles (approximately \$17 million).

Automotive Sector

Russia maintains an investment incentive regime in the automotive sector with domestic content requirements and production targets. The first program, introduced in 2005, allowed for the duty-free entry of automotive parts used in the production of vehicles that contained at least 30 percent Russian content and required that auto manufacturers produce at least 25,000 units domestically. In December 2010, Russia initiated a second automotive industry investment incentive program that increased significantly the required domestic production volume to 300,000 units and the domestic content requirement to 60 percent. As part of its WTO accession protocol, Russia agreed to end the problematic elements of the programs by July 1, 2018 and to begin consultations in July 2016 with the United States and other WTO Members on WTO-consistent measures it may take in this sector. Nevertheless, the local content requirements remain a barrier to U.S. exports of automotive parts and the United States will work with Russia to eliminate the elements of these investment incentive programs that are inconsistent with TRIMS, even before the July 1, 2018 deadline.

ELECTRONIC COMMERCE

Since December 2013, when President Putin announced support for "streamlining e-commerce," government officials have proposed various reductions in the duty-free threshold for online purchases from non-EAEU online stores. On October 10, 2014, the Ministry of Economic Development proposed reducing the current €1,000 maximum to €500 per month. However, President Putin indicated on November 11, 2014 that the Russian Federation will not make a decision until after consultations with the other members of the EAEU.