

Russia's WTO Accession: Many Hurdles Remain

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Since beginning his term of office in 2000, Russia's President Putin has made accession to the World Trade Organization (WTO) the country's top economic priority. Russia applied for WTO admission in 1993, but progress toward accession has been uneven over the years. Russia still must complete steps that do not appear to lead to accession until 2002, at the earliest.

Russia's WTO Accession: Many Hurdles Remain

The Russian Federation (Russia) has been negotiating terms for accession to the World Trade Organization (WTO) since 1995. Progress toward accession has been uneven over the years, with negotiations to date consisting largely of detailed examinations of Russia's trade policies and the legal and administrative framework for trade.

Russia's WTO accession negotiations have been slow for several reasons. Still in transition from a non-market to a market economy since the breakup of the Soviet Union, Russia faces the ongoing challenges of restructuring its economy, privatizing government-owned industries, and implementing market-oriented economic reforms. Reaching political consensus on reforms—particularly on reforms that would open the Russian economy to more efficient foreign competitors—often has proved difficult and time consuming. A 1998 economic crisis, precipitated by a loss of the financial markets' confidence in Russia, was a significant setback that forced Russian policymakers to make domestic economic crisis-management their priority. Rising world oil prices beginning in 2000—petroleum products are Russia's top exports—generated windfall budget surplus and slowed the impetus in Russia for domestic economic reforms and integration into the global economy.

The goal of WTO membership consistently has been the cornerstone of Russian economic policies to integrate Russia into the global economy following de-

acades of Soviet self-imposed isolation. While the WTO does not require that its members enact specific legislation, its members have requested that Russia develop new laws and regulations in line with international standards, improve enforcement of regulations already compliant with WTO rules, and agree to terms that will open Russian markets to foreign competition before Russia's accession application is approved. Russian officials once hoped to achieve WTO membership before 2000, but at times the Russian government's commitment to WTO accession has seemed uncertain. Vladimir Putin, elected president of Russia in March 2000, has again made WTO accession a priority. In September 2000, President Putin kicked off an accelerated bid for WTO accession that included a timetable for Russia to enact WTO-compliant legislation, with the hope of completing negotiations by the end of 2002.

Significant work remains, however, before Russia's WTO accession can advance. In a recent speech, WTO Director-General Mike Moore reported that a number of difficult issues remained in Russia's accession negotiations.² Issues to be addressed include Russian agricultural subsidies, the Russia customs system, foreign investment regulations, market access in Russia's service sectors, Russian standards and technical barriers to trade, as well as Russia's need to improve its administration and enforcement of intellectual property rights.

This article assesses the status of Russia's WTO accession and summarizes key issues that remain to be resolved in Russia's negotiations to join the WTO. While the Russian government's official position remains overwhelmingly in favor of WTO accession, the undercurrent of political views that are opposed to WTO accession also is examined.

¹ The views and conclusions expressed in this article are those of the author. They are not necessarily the views of the U.S. International Trade Commission as a whole or of any individual Commissioner.

² Mike Moore, WTO Director-General, "Russia, the International Economy, and the World Trade Organization," press release, March 30, 2001.

Russia's WTO Accession Application

Russia requested membership in the WTO in June 1993 (then known as the General Agreement on Tariffs and Trade, or GATT),³ and a WTO Working Party was formed that same month.⁴ Initially comprising 54 members, the current 25 members of Russia's WTO Working Party include the United States,⁵ the European Union (EU), Argentina, Australia, Brazil, Canada, Chile, the Czech Republic, Ecuador, Estonia, Georgia, Hungary, India, Japan, Korea, Latvia, Mexico, Mongolia, Norway, Panama, Poland, New Zealand, Slovakia, Switzerland, and Turkey. Russia's application was formally transferred to the WTO after it was established in 1995.

Russia submitted to the WTO Working Party its Memorandum of Foreign Trade Regime in March 1994. That memorandum, which details Russian trade policies currently in place that have a bearing on the WTO Agreements, forms the basis of detailed fact finding by the Working Party. Areas addressed in the memorandum include Russian import and export regulations, agricultural and industrial policies, policies affecting trade in services, and policies regarding such areas as intellectual property rights, customs valuation,

and licensing requirements. A round of questions from WTO Working Party members about Russia's memorandum, followed by Russia's responses was completed in June 1995. The WTO Working Party then held its first meeting to consider Russia's application in July 1995. From late 1995 through the end of 1998 there were an additional 7 formal meetings of the Working Party to investigate the Russian trade, investment, and subsidies regimes.

Russia submitted its first market-access offer to the WTO Working Party for trade in goods in February 1998, providing a schedule of commitments on tariffs (see *IER*, January/February 1998). Russia tabled additional market-access offers for trade in agricultural products, including commitments on export subsidies and domestic supports for farmers, and commitments for the protection of intellectual property rights, in December 1998. Russia completed its WTO offer with the submission of a market-access offer for trade in services, including banking and financial services, telecommunications, and tourism in October 1999. Commitments each member makes in its WTO accession negotiations become obligatory and enforceable under WTO rules.

With schedules of commitments on market access for trade in goods and for trade in services formally tabled, Russia's initial market-access offer was substantially complete and its WTO application ready to move from the information gathering phase to the negotiation phase.⁶ However, the WTO Working Party generally considered these initial offers as deficient and far from a meaningful basis from which to begin negotiations. In joining the WTO, countries commit to reduce and lock in, or "bind," their tariffs (i.e., "binding" a tariff is a legal commitment not to raise it above a specified rate; a member can raise tariffs above bound rates only by payment of compensation to those WTO members affected).⁷ Russia's initial tariff offer,

³ Russia took over the former Soviet Union's nonparticipating "observer" status to the GATT in 1992. The former Soviet Union had been an observer to the GATT since 1990.

⁴ A new Working Party is formed for each WTO applicant. Any number of WTO members may join the Working Party for a particular applicant, but generally only those members with particular interests in the accession of a given applicant participate. New WTO members can join Working Parties that already have been formed. The Working Party (1) conducts a fact finding investigation to determine the degree of inconsistency between WTO rules and the relevant legislation and policies of the applicant, and (2) conducts bilateral and multilateral negotiations with the applicant on its tariff, nontariff, and market-access commitments. Each Working Party takes decisions by consensus; therefore, all interested WTO members must be in agreement that their individual concerns have been met and that outstanding issues have been resolved in the course of their bilateral and multilateral negotiations. The applicant is required to extend all commitments made during bilateral and multilateral negotiations with Working Party members to all WTO members upon accession. All documentation examined by the Working Party during the process of negotiation remains restricted by the WTO until accession is complete. WTO, "Accessions on the WTO Website," found at http://www.wto.org/english/thewto_e/acc_e/acc_e.htm#top.

⁵ The U.S.-Russia Trade Agreement governs all trade relations between the two countries. The Soviet Union signed the agreement in June 1990, and it was approved by the U.S. Congress in November 1991. The Soviet Union was dissolved in December 1991, before the treaty was ratified. Russia's Duma (parliament) approved the agreement on June 17, 1992, making it possible for the United States to extend most-favored-nation (now normal trade relations, NTR) on an annual basis. Because of Jackson-Vanik amendment restrictions, Russia is not eligible for NTR on a permanent and unconditional basis from the United States.

⁶ In the negotiating phase, the WTO applicant engages in parallel multilateral and bilateral talks with members of the Working Party. Negotiations occur as Working Party members submit requests for improved market access, and the applicant responds with modified counter offers. The negotiations continue until the Working Party agrees that all necessary changes have been made to bring the applicants foreign trade regime into compliance with WTO rules. Article XII of the WTO Agreement governing accession does not set a fixed timeframe or deadline for the completion of the accession process. When complete, the final "accession package" is to consist of three documents which represent the results of both the multilateral and bilateral negotiations—a Report of the Working Party containing a summary of proceedings and conditions of entry, a Protocol of Accession, and schedules of market-access commitments in goods and services agreed between the acceding government and WTO members.

⁷ WTO, "Tariffs: More Bindings and Closer to Zero," found at http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm2_e.htm.

however, excluded 500 of Russia's 10,000 tariff lines from tariff binding commitments—meaning that Russia could increase tariffs on those items without restriction. Moreover, Russia proposed to bind its tariffs at significantly higher rates than tariffs currently in force—a starting offer most WTO Working Party members found unacceptable. Russia's initial agricultural commitments contained provisions for subsidies unacceptable to many WTO Working Party members (discussed in more detail below). Working Party members also expressed concerns about the protection of intellectual property in Russia and enforcement of penalties for violations of patents, copyrights, and trademarks. Russia's initial services offer listed extensive cross-sectoral exceptions (“horizontal reservations”), contained an extensive list of countries exempt from the most-favored-nation (MFN) principle of nondiscrimination, and listed few or no commitments on business activities in many areas such as establishment of branches and representative offices.⁸

Following bilateral and multilateral consultations with WTO Working Party members, Russia submitted a revised offer for trade in goods in March 2000. In bilateral negotiations, the United States presented Russia with a detailed request for market access in services in May 2000. Russia tabled further revisions for trade in goods and services in February 2001. The revised offers contained many market-access improvements, although WTO Working Party members noted backward movement in some areas. Russia's revised tariff offer was broadened to apply to all 10,000 tariff lines and the proposed bound tariff rates were lower than those initially offered; however, the proposed revised bound tariff rates remained generally higher than currently applied rates in many cases. The revised services offer eliminated many of Russia's proposed

⁸ European Union, “Implementation of the EU-Russia Common Strategy: EU Trade Policy Priorities in the Short to Medium Term,” Sept. 14, 2000, found at http://www.euro-pa.eu.int/comm/trade/pdf/str_russia.pdf, p. 6; Ministry of Economy, Trade, and Industry, Government of Japan, “Issues Regarding Accession of China, Russia, and Taiwan to the WTO,” p. 409, found at <http://www.meti.go.jp/english/report/download/gCT0116e.pdf>; Department of Economic Affairs, Ministry of Foreign Affairs, Government of Russia, “Russia and the WTO,” Jan. 26, 2000, found at <http://www.in.mid.ru/website/ns-dipecon.ns>; and U.S. Department of State telegram, “WTO Accession by Russia,” message reference No. 22053, U.S. Embassy, Moscow, Dec. 26, 2000.

cross-sectoral restrictions. The revised agriculture market-access offer provided further details on Russia's proposed regime for domestic agricultural subsidies.⁹

Russian Attitudes Towards WTO Accession

Accession to the WTO generally enjoys broad political support in Russia. Russian officials estimate that Russian trade gains could total as much as \$18 billion over 5 years following WTO accession as a result of reduced tariff and nontariff barriers of Russia's trading partners. A variety of sources anticipate that WTO accession would afford enhanced access to export markets for Russian goods, promote sustainable economic growth in Russia by reducing tariffs on the imported machinery and capital equipment Russia needs to improve agricultural and industrial productivity, promote foreign investment by making Russia's trade and investment regimes more transparent and predictable, and help Russia assert its trade interests worldwide by placing it on a level international playing field and giving Russia access to the WTO dispute resolution system. Despite these likely benefits, one source reported that some members of Russia's largest export sectors—including oil and gas producers and the aluminum industry—are not lobbying heavily for WTO accession because such commodities already trade freely on international markets; however, the costs of being excluded from the WTO could be significant for other Russian industries such as steel, which is subject to antidumping complaints from the European Union and the United States.¹⁰

The Russian press has documented the concerns of a small number of opponents to Russia's bid to join the WTO.¹¹ Their primary concern is that WTO accession is premature because Russia is unprepared to face global competition, at least in the near term. Russia would have to lower its own trade barriers and agree to open its market to foreign goods and services in exchange for receiving access to other markets as part of WTO accession. It is feared that such an opening of the

⁹ For further information on Russia's WTO accession application and market-access offers, see Mike Moore, WTO Director-General, “Russia,” speech, March 30, 2001, and John Zarocostas, “Russia Finally Submits Market-access Offer to the WTO,” *Journal of Commerce*, Feb. 18, 1998, p. 4A.

¹⁰ Igor Semenenko, “Steel Firms Keen for Spot at WTO Table,” *Moscow Times*, Jan. 31, 2001, p. 1; Natasha Shanetskaya, “Economy Not Yet Stable, Putin Tells WTO,” *Moscow Times*, Apr. 2, 2001, p. 7; and “Russia Must Be Careful Not to Blow it in Negotiations with the WTO,” *The Russia Journal*, April 19-25, 2001.

¹¹ Natasha Shanetskaya, “Economy Not Yet Stable”; “Moscow Mayor Warns Russia Against Joining WTO,” *Pravda Online*, April 20, 2001, found at <http://english.pravda.ru/main/2001/04/20/3828.html>; “Russia Should Think Hard Before Joining WTO, Says Former USSR Prime Minister,” *Strana.Ru*, found at <http://russia.strana.ru/print/98772616.html>.

trade regime could have an adverse impact on the many Russian industries that are not globally competitive, and ultimately derail Russia's immediate economic growth prospects through industry closures and increased unemployment. One particular concern is that Russia's automobile industry, and industries that supply its inputs such as steel, would be adversely affected by foreign competition from Asian, European, and U.S. automobile producers if protective trade barriers are lifted as a result of WTO accession (Russian automobile tariffs are discussed in more detail below). Another concern is that the Russian government is not yet able to define the country's economic priorities. Some feel that Russia is not institutionally prepared to join the WTO because the country's weak industries lack the power to lobby the government for their interests. Thus, it is difficult for the Russian government to develop a tariff regime within WTO rules that will afford adequate protection for Russian industries, and Russian trade negotiators do not know which sectors to protect and which to open to foreign competition. Other concerns are that tariff bindings in the WTO would restrict Russia's ability to raise tariffs in response to changes in domestic economic conditions, and that closer integration with the global economy would further expose Russia to global cyclical downturns.

Other Russian critics of WTO accession have written that Russia's actual gains from WTO membership will be small because Russia already has MFN trading status with most other WTO members including the European Union,¹² Russia's largest trading partner, and the United States (although the United States must renew that status annually pursuant to the Jackson-Vanik amendment), and that Russian products already have broad access to international markets. For example, U.S. imports from Russia increased from \$4.3 billion in 1997 to \$7.8 billion in 2000; moreover, Russian products valued at \$514 million entered the United States duty free in 2000 under the U.S. Generalized System of Preferences (GSP) program.¹³ Moreover, critics say that WTO accession would not completely eliminate other countries' trade barriers. One author wrote, "It is ludicrous, for example, to expect the

¹² Reciprocal MFN treatment was provided under the EU-Russia Partnership and Cooperation Agreement. The agreement was signed in 1994 and entered into force after national ratifications in December 1997.

¹³ The GSP program authorizes the President to grant duty-free access to the U.S. market for certain products that are imported from designated developing countries and transitioning economies. Russia has received U.S. GSP benefits since 1993. For further information, see USITC, *The Year in Trade 2000: Operation of the Trade Agreements Program*, 52nd Report, USITC Publication 3428, June 2001, pp. 5-15 to 5-20.

United States to let Russian steel into its market."¹⁴ In response to such criticisms, Russia's chief WTO trade negotiator, vice-minister Maxim Medvedkov, has stated, "No one is planning to reduce import tariffs to zero and . . . we mustn't forget that entering the WTO doesn't stop us from applying selective market protection measures including antidumping, constitutional, and special protection measures."¹⁵

Specific Issues of Concern in Russia's WTO Accession

Agriculture

According to WTO Director-General Moore, agriculture is one of the most difficult issues in Russia's negotiations, particularly with respect to demands for market access for agricultural exports made by the European Union, the United States, Australia, and other agricultural exporters.¹⁶ While global agricultural exporters want access to the Russian market, Russia wants to ensure that global competition does not undermine domestic producers. Russia's difficulty in formulating a market-access offer lies in the fact that the extent of Russian agricultural reform and the eventual structure of the Russian agricultural sector remain unknown. Land reform measures approved by the Duma in June 2001 authorizing sales and purchases of land to private interests did not extend to agricultural land. WTO Working Party members, however, are pressing to see exactly how Russia will implement its agricultural reform.

Russia's use of agricultural subsidies is another issue of concern to the WTO Working Party. Price deregulation in the Russian agricultural sector has resulted in reduced agricultural production; consequently, the Russian Government has used subsidies to stimulate production, improve infrastructure, build public stockpiles, and provide low-cost loans. Subsidies are not prohibited by the WTO, but the WTO Agriculture Agreement creates a framework within which agricultural supports are regulated. WTO Working Party members have encouraged Russia to reduce market-distorting practices such as agricultural subsidies as much as possible.

Russia's provisions for agricultural subsidies in its initial offer on agriculture was unacceptable to the WTO Working Party. The base period for determining allowable Russian agricultural subsidies has become a particular point of extended negotiations. WTO Working Party members requested that Russia use

¹⁴ Mikhail Delyagin, "No Need to Rush into the WTO," *The Russia Journal*, May 4-10, 2001.

¹⁵ Lyuba Pronina, "Chief WTO Negotiator Relishes His Assignment," *Moscow Times*, Feb. 21, 2001, p. 5.

¹⁶ Mike Moore, WTO Director-General, "Russia," speech, March 30, 2001.

1995-1997 (the 3 most recent years for which data are available, a commonly used standard) as the base period for domestic supports. However, budget difficulties in those years meant that the Russian government had sharply cut spending on agricultural supports in recent years. To preserve the ability to subsidize agriculture in the future, the Russian offer has involved various proposals using a base period of roughly 1989-1991 that would allow higher subsidy levels.

Russia proposed in its February 2001 revised agricultural market-access offer that it would provide export subsidies of up to \$700 million annually, declining to \$465 million annually 6 years after WTO accession, and provide domestic support for farmers of \$16.7 billion annually, declining to \$12.9 billion 6 years after accession. Russian officials indicated that the country's current spending on domestic support totals \$2 billion annually, but that agricultural production is expected to increase by 5 percent annually through 2010.¹⁷

Antidumping Measures

Currently, EU and U.S. antidumping regulations treat Russia as a non-market economy in antidumping investigations. EU and U.S. antidumping investigators generally do not accept domestic price data from countries with non-market economy status because prices in a non-market economy are assumed to be unrealistic; instead, they use price data from an analogous market economy third country.¹⁸ In practice, non-market status can make it more difficult to defend against dumping allegations. The Russian government is particularly concerned that the United States drop the non-market designation after Russia accedes to the WTO.

The United States currently has antidumping orders in place against Russia for urea (originally imposed in 1987) and ferrovandium and nitrated vanadium (1995). The more recent practice has been for the United States and Russia to negotiate suspension

¹⁷ Daniel Pruzin, "WTO: Russian WTO Negotiator Sees Progress in WTO Accession Talks; Services Access Lags," *Bureau of National Affairs* (BNA), Apr. 27, 2001.

¹⁸ The EU has amended its antidumping regulations to allow investigations concerning imports from Russia, China, Kazakhstan, Ukraine, Vietnam, and any other non-market economies which are WTO members at the date of the initiation of an EU antidumping investigation to be treated as market economies under certain circumstances. Commission Decision No. 435/2001/ECSC of Mar. 2, 2001. Meanwhile, the EU-Russian Partnership and Cooperation Agreement allows a Russian firm subject to an EU antidumping investigation to request market economy treatment if the firm can demonstrate that its exporting activities are determined by market forces. European Union, "EU-Russian Economic and Trade Relations: An Overview," May 21, 2001 found at http://www.europa.eu.int/comm/trade/bilateral/russia/rus_ovw.htm.

agreements¹⁹ under which Russia has both a quota (normally not permitted under WTO rules but allowed because Russia is not a WTO member) and a minimum reference price for shipments to the U.S. market. Such suspension agreements are in place with respect to U.S. imports of Russian uranium (1997), carbon steel plate (1997), hot-rolled steel (1999), and solid fertilizer-grade ammonium nitrate (2000).²⁰

Customs Law

Reform of Russian customs law to meet current international standards has been a difficult undertaking for Russia. During the Soviet era, customs officers had the additional roles of political police and censors. Russia's State Customs Committee was established in 1991 under legislation intended to resemble international norms. A 1993 customs law established rules for the valuation of goods imported into Russia closely resembling WTO standards. However, there is a significant gap between Russian customs legislation and actual practices because local Russian customs authorities have broad discretion in interpreting customs laws.

Almost every aspect of the Russian customs regime—including laws, tariff rates, and enforcement—has come under scrutiny during Russia's WTO accession negotiations. Many Working Party members have expressed concern over the lack of uniformity and transparency in the actual administration of the trading system. Legislation for a new customs code to meet some WTO concerns has been introduced into the Duma, but continues to be the subject of internal debates within the Russian government. WTO-consistent legislation on customs valuation reportedly has been folded into draft legislation revising the Russian tax code. Members of the WTO Working Party are not likely to consult with Russia on the WTO-consistency of its customs law until a final version of the customs code is drafted.²¹

¹⁹ A U.S. antidumping investigation may be suspended through an agreement before a final determination is made by the U.S. Department of Commerce. An investigation may be suspended if exporters accounting for substantially all of the imports of the merchandise under investigation agree either to eliminate the dumping or to cease exports of the merchandise to the United States within 6 months. In extraordinary circumstances, an investigation may be suspended if exporters agree to revise prices to completely eliminate the injurious effect of the imports. USITC, *The Year in Trade 2000: Operation of the Trade Agreements Program*, p. 5-12.

²⁰ U.S. Department of State telegram, "Snapshot 54: Anti-dumping and Market Economy Status," message reference No. 22214, prepared by U.S. Embassy Moscow, Dec. 28, 2000. Additional information on antidumping orders in effect (as of Dec. 31, 2000) from USITC, *The Year in Trade 2000: Operation of the Trade Agreements Program*, table A-26, p. A-33.

²¹ U.S. Department of State telegram, "2001 National Trade Estimate Report: Russia," message reference No. 00430, prepared by U.S. Embassy Moscow, Jan. 12, 2001.

Import Licenses and Restrictions

Russia requires import licenses for various goods, including ethyl alcohol and vodka, color televisions, raw and processed sugar, precious metals, alloys and stones, encryption software and related equipment, weapons, and explosives. A Russian law restricts imports of distilled spirits to no more than 10 percent of alcohol sales in Russia; within this quota, at least 60 percent of imports must contain 15 percent alcohol or less—severely restricting imports of most distilled spirits such as bourbon, rum, and vodka, a concern for U.S. exporters. Working Party members are seeking assurances that Russia's import policies will be based on WTO rules that justify its licensing requirements and import restrictions.²²

Intellectual Property

Russia will be required to meet obligations under the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) immediately upon accession. Russia currently is party to major international agreements concerning the protection of intellectual property, including the Berne Convention for the Protection of Literary and Artistic Works, the Geneva Phonograms Convention, the Paris Convention for the Protection of Industrial Property, and the Universal Copyright Convention. Russia has made considerable progress in constructing a legal framework to bring the country to world standards for intellectual property protection, although there are deficiencies in the area of protection for pre-existing copyrighted works and sound recordings. New legislation being considered by the Russian government is intended to bring Russia's legislation largely in line with the TRIPS standard. Russia has committed to bring its intellectual property regime in line with that of the European Union by January 1, 2003 as part of the EU-Russian Partnership and Cooperation Agreement.

Despite Russia's success in enacting legislation to protect intellectual property, enforcement of these laws remains problematic. The Russian judicial system is generally ill-prepared to handle many intellectual property cases, and the Russian criminal code provides inadequate penalties for provisions for intellectual property violations. There are many cases of copyright and trademark violation. Software piracy is widespread in Russia, with an estimated 90 percent of software sold in Russia being pirated. Russia a source of pirated audiovisual products and counterfeit branded consumer goods that get onto world markets. U.S. industry sources estimate their cost of intellectual property violations in Russia to be approximately \$1 billion annually. Russia recently has stepped up enforcement of anti-piracy laws and has implemented judicial sys-

²² U.S. Department of State telegram, "2001 National Trade Estimate Report: Russia."

tem reforms to better handle intellectual property cases.²³

Investment

Despite passage of a new foreign investment law in 1999, WTO Working Party members report that Russia's foreign investment regime remains confusing and contradictory. A yet undesignated single agency is to register all foreign investment. The law does not codify the principle of nondiscriminatory treatment for foreign investors, including the right to purchase securities, transfer property rights, protect rights in Russian courts, repatriate funds abroad after payment of duties and taxes, and receive compensation for expropriation.

Russia maintains several investment-related restrictions. Foreign investment is restricted to 25 percent of an enterprise in the aerospace industry; 20 percent in the natural gas monopoly Gazprom, and 25 percent in the electrical power utility Unified Energy Systems. Foreign investment is prohibited in the importation, bottling, and distribution of beverages containing more than 12 percent alcohol.

The WTO Agreement on Trade-Related Investment Measures (TRIMS) applies to investment measures that affect trade in goods, and states that no member shall apply any such measure that discriminates against foreigners or foreign products. Russia has stated that it intends to eliminate any measures contrary to the TRIMS Agreement by the time of its WTO accession. The Russian government also plans to introduce a commercially acceptable regime for production-sharing agreements (PSAs) that will be consistent with the TRIMS Agreement.²⁴

Russia and the United States signed a bilateral investment treaty (BIT) in June 1992. The BIT was approved by the U.S. Senate in October of the same year, but has not yet been ratified by the Duma. In January 1996, Russia and the United States concluded a joint memorandum of understanding that addresses U.S. concerns about barriers to the Russian civil aircraft market and the application of international trade rules to the Russian aircraft sector. That memorandum states

²³ U.S. Department of State telegram, "2001 National Trade Estimate Report: Russia." For additional information regarding intellectual property, see Art Franczek, "Russia, WTO, and Customs Reform: An Uphill Struggle," *AmCham Newsletter*, Jan.-Feb. 2001, and Lyuba Pronina, "IP Takes Spotlight in Race for WTO Entry," *Moscow Times*, Feb. 21, 2001, p. 5.

²⁴ PSAs, which are used in many countries, are fixed-term agreements providing a regulatory framework for large-scale foreign investment projects. The U.S. oil and gas industry considers a commercially acceptable PSA regime particularly suitable for large-scale investments in Russia because the agreements establish an unambiguous regulatory framework that minimizes opportunities for arbitrary decisions and for local corruption. U.S. Department of State telegram, "Snapshot 79: Production Sharing Agreements," message reference No. 00023, prepared by U.S. Embassy Moscow, Jan. 3, 2001.

that U.S. aircraft manufacturers will be able to participate in the Russian market, and makes it clear that the Russian aircraft industry will in time be fully integrated into the international economy.²⁵ Russia has not indicated willingness to become a signatory to the WTO Agreement on Trade in Civil Aircraft, which contains disciplines on government procurement of civil aircraft such as key rules regarding inducements to purchase (so-called offsets) or acceptable and unacceptable forms of government financial support for the civil aircraft sector.

Regional Trade Arrangements

Russia has a network of trade arrangements with neighboring former Soviet republics making up the Commonwealth of Independent States (CIS) and with other countries that have drawn the attention of the Working Party. Included are Russia's bilateral free-trade agreements, with the goal of an eventual CIS-wide customs union (a free-trade area extended to include a common external tariff), with Armenia, Azerbaijan, Georgia, Moldova, Tadjikistan, Turkmenistan, Ukraine, and Uzbekistan, as well as bilateral customs union agreements with Belarus, Kazakstan and the Kyrgyz Republic.

Article XXIV of the GATT permits members to establish regional trading arrangements such as customs unions and free-trade areas, which normally would violate the WTO's principle of equal treatment for all trading partners, provided that the arrangements help trade flow more freely among the countries in the group without raising trade barriers to nonparticipants. Several Working Party members have sought clarification on the scope of Russia's regional trade agreements and their WTO conformity. The United States also has sought assurances that the EU-Russian Partnership and Cooperation Agreement, which envisions an eventual EU-Russia free-trade agreement, does not disadvantage U.S. exporters and investors vis-à-vis their EU counterparts in the Russian market.

Services

The WTO General Agreement on Trade in Services (GATS) establishes multilateral, legally enforceable rules covering international trade in a broad range of services. In addition to certain general principles and obligations, GATS establishes rules for specific sectors and individual countries' specific commitments to provide nondiscriminatory access to their markets. WTO Director-General Moore reported that there was significant work yet to be done on negotiations with Russia in

²⁵ U.S. Department of State telegram, "2001 National Trade Estimate Report: Russia."

the area of trade in services.²⁶ Vice-minister Medvedkov characterized discussions with WTO Working Party members on foreign access to Russia's services market as "extremely difficult."²⁷ Russia is reluctant to provide foreign market access to its services sectors until they can become more internationally competitive. Paradoxically, Russian service providers lack indigenous capital to undertake the needed large-scale investment. The U.S. Embassy in Moscow reports that discrimination against foreign providers of non-financial services is in most cases not the result of Russian federal laws, but stems from local regulations, abuse of power, and practices that may even violate Russian federal laws.²⁸

Banking consistently has been a difficult topic in Russia's WTO accession discussions. Foreign banks are permitted to establish subsidiaries pursuant to Russia's 1996 banking law, but the amount of foreign bank capital is limited to 12 percent of total Russian bank capital. Russia's revised WTO services offer increased that amount to 20 percent. Russia's 1999 insurance law permits majority-foreign owned insurance companies to operate in subject to market capitalization restrictions, but prohibits them from selling life insurance. Four foreign companies currently licensed under "grandfather clause" provisions with minority foreign participation (49 percent or less) are not subject to the above restrictions. Russia's revised WTO offer proposes limiting foreign investment to 15 percent of total equity in the life and non-life insurance sectors. Russia's revised WTO offer also proposes allowing foreign investment up to 49 percent of Russian-based fixed line and mobile operators which provide telecommunications services through their own networks, and a maximum of 25 percent holding in forms which provide resale-based connection services. Working Party members continue to seek further clarification on Russia's proposals for cross-sectoral restrictions such as natural monopolies (including electricity, gas, and railroads), allowed forms of commercial presence, and restrictions on establishing commercial presence in retail services. Other Working Party concerns include the need for Russia to draft foreign market-access commitments for marine transportation services and road transportation services.²⁹

²⁶ Mike Moore, WTO Director-General, "Russia," speech, March 30, 2001.

²⁷ Daniel Pruzin, "WTO: Russian WTO Negotiator Sees Progress."

²⁸ U.S. Department of State telegram, "2001 National Trade Estimate Report: Russia," and "Snapshot 49: The Telecom Sector in Russia," message reference No. 22134, prepared by U.S. Embassy Moscow, Dec. 27, 2000.

²⁹ Daniel Pruzin, "WTO: Russian WTO Negotiator Sees Progress"; Ministry of Economy, Trade, and Industry, Government of Japan, "Issues Regarding Accession of China, Russia, and Taiwan to the WTO," p. 416; and U.S. Department of State telegram, "2001 National Trade Estimate Report: Russia."

Standards and Certification

Standards, testing, and certificates have become significant obstacles to market access due to a lack of transparency and predictability in the Russian standards system, lack of harmonization with international standards, and absence of unified and procedures. Russian standards and procedures for certifying imports have long been criticized as expensive, time-consuming, and beset by redundancies. The WTO Agreement on Technical Barriers to Trade (TBT) recognizes members' rights to adopt standards they consider appropriate, but tries to ensure that regulations, standards, testing and certification procedures do not create unnecessary obstacles. Reports indicate that a 1998 law on certification of products and services brought an estimated 30 percent of Russian standards into conformity with the TBT Agreement, although certification remains particularly onerous in the areas of construction materials and equipment, consumer electronics, telecommunications equipment, and oil and gas equipment.³⁰

Tariffs

A major revision of tariff rates took effect January 1, 2001 as part of a new customs law. Under the revision, tariffs were consolidated into 4 major product groups—raw materials, semi-finished goods, food products, and finished products—with tariffs ranging from 5-20 percent ad valorem (the maximum rate was reduced from 30 percent) for almost all tariff categories. This represents an overall lowering of tariff rates from 11.4 percent to 10.7 percent, according to the Russian government. However, unification caused tariff rates for some individual items to rise, creating a number of so-called tariff peaks—including higher rates for raw sugar (30 percent), poultry (25 percent) and automobiles (25 percent). Working Party members remain concerned that a large number of Russia's proposed bound tariff rates continue to exceed currently applied rates on many tariff lines, particularly for agricultural products. WTO Working Party members also have expressed the interest that Russia become a signatory to WTO sectoral initiatives such as the Information Technology Agreement under which tariffs on information technology products are reduced to zero.

Russian automobile imports are subject to both the automobile tariff and an excise tax based on engine displacement; the engine displacement-weighted excise tax can raise import prices of larger U.S.-made passenger cars and sport utility vehicles by over 70 percent.

³⁰ Art Franczek, "Russia, WTO, and Customs Reform: An Uphill Struggle," *AmCham Newsletter*, January-February 2001; Ministry of Economy, Trade, and Industry, Government of Japan, "Issues Regarding Accession of China, Russia, and Taiwan to the WTO," p. 415; and U.S. Department of State telegram, "2001 National Trade Estimate Report: Russia."

Russian tariffs of 20 percent ad valorem on imported aircraft remain prohibitively high. However, Russia waives aircraft tariffs for purchases by Russian Airlines contingent on those airlines' purchases of Russian-made aircraft.

Transition Period

One unresolved issue is the amount of time Russia will be granted to fully implement its commitments once its WTO application is approved. Russian President Putin has stated that although Russia seeks no special privileges for entering the WTO, an understanding that Russia is undergoing a period of economic restructuring is desirable. Russian officials already have indicated their intent to seek a 5 to 7 year transition period in which to phase in WTO commitments,³¹ although the Working Party may insist that Russia implement major elements such as intellectual property protection, standards, and customs reforms upon accession.

Conclusion

Notwithstanding their desire to become a member of the WTO, Russian officials have voiced the concern that the terms of admission for Russia not be different from those of prior applicants. According to vice-minister Medvedkov, "We are very firm that Russia cannot be compelled to accept a WTO-plus,"³² or disciplines and measures that go beyond what is required to join the WTO that other prospective WTO members have not had to accept. Indeed, there are a number of commitments that WTO members and applicants can make that are not mandatory for membership—such as joining the Agreement on Trade in Civil Aircraft and the Agreement on Government Procurement, and adopting sectoral tariff-cutting initiatives such as the Information Technology Agreement and the Chemical Harmonization Program. Working Party members have noted that major WTO members, and all of the countries that have completed their accession negotiations since the WTO was created in 1995, have accepted some or all of these additional commitments.

Russian officials have been particularly concerned about requests from the WTO Working Party to review draft legislation in order to ensure that the proposed laws are WTO-compatible before Russia formally enacts them.³³ However, all WTO members are required to bring their relevant legislation into line with WTO provisions, and recent acceding countries have drafted and enacted virtually all WTO implementing legisla-

³¹ Andrew Jack, "Russia Says It Is Keen to Join World Trade Body," *Financial Times*, Mar. 31-Apr. 1, 2001, and Natasha Shanetskaya, "Economy Not Yet Stable."

³² Robert Evans, "Minister Vows Faster Reforms for WTO Bid," *Moscow Times*, Dec. 20, 2000, p. 10.

³³ BNA, "WTO: Russian Officials Balk at Demand for WTO Vetting of Trade Legislation," June 28, 2001.

tion prior to completing their negotiations. WTO Working Party members have underscored the fact that, although acceding countries are not required to share their draft legislation, countries typically provide copies of draft and completed laws for Working Party review and comment to ensure that the legislation does not need to be revised after it already has been enacted.

Based on a sample of recent economic literature and press reports, current estimates are that Russia's WTO accession could be sometime between 2002 to 2005. Some sources report that Russia is increasingly concerned, and vexed, by the number of East European and former Soviet republics that are now WTO mem-

bers. Albania (WTO membership granted in September 2000), Croatia (November 2000), Estonia (November 1999), Georgia (June 2000), Latvia (February 1999), Lithuania (May 2001), Kyrgyz Republic (December 1998), Moldova (July 2001), and Slovenia (July 1995) are now WTO members. Many of these countries have joined the WTO Working Party on the accession of Russia, and will have roles in determining the terms for Russia's accession. Russia and China are the only major economies in the world that are still not WTO members. The recent announcement that China has substantially completed negotiations in its accession Working Party could prove to be yet another hurdle for Russian trade negotiators.