U.S.-Russia
Business Council

Russia's Implementation of its WTO Commitments

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Good morning. I am Randi Levinas, Executive Vice President and COO of the U.S.-Russia Business Council or USRBC. USRBC would like to thank the Trade Policy Staff Committee for this opportunity to testify to assist USTR in its preparation of its 2018 report to Congress on Russia's implementation of its World Trade Organization obligations.

Bilateral geopolitical tensions and corresponding policy responses continue to pose challenges for commercial relations. While Russia's economy has continued to grow, pressures from abroad and policy decisions at home have resulted in higher inflation, a weaker ruble, and an impending increase in Russia's value-added tax. Importantly, in this environment, we recognize Russia's strides to meet tariff reductions in accordance with its WTO commitments.

Our written comments outline a range of policies and include draft proposals we are currently tracking related to the general investment environment, implementation of Russia's WTO commitments, and concerns about WTO compliance.

I will provide an overview today of the latest developments

I'd like to start, however, with a comment about the Eurasian Economic Union.
The Eurasian Economic Union represents an integrated single market of 183 million people and a combined GDP of over $4 trillion. Its Eurasian Economic Commission (EEC) is responsible for common policies in agriculture and industry, anti-trust regulation, competition, customs, foreign trade and investment, healthcare, macroeconomics, technical regulation and transport. From customs duties and technical standards to intellectual property rules and environmental regulations, U.S. businesses have been affected by the EEC's decisions. As we consider the broader investment environment and trade regime within which Russia operates, the U.S.-Russia Business Council urges the U.S. government to consider initiating engagement with the EAEU's rules-setting body, the Eurasian Economic Commission.

Regarding improvements in the investment environment, last year we reported that Russia continues to work toward improving its investment environment. In the most recent World Bank *Doing Business* survey, Russia ranked not only far ahead of its BRIC partners, but only one place below Japan, and above EU member states such as Italy and Belgium.

USRBC welcomes the Russian government's advances in improving the operating environment for business.

At the same time, it is important for the U.S. government to recognize that Russia has options with respect to foreign investment partners. This has implications for U.S. policy and U.S. competitiveness globally. China, South Korea and Japan are now among Russia's top-ten investors, focusing largely on new projects in manufacturing, power, finance, and business services.

USRBC believes that our companies' active presence in Russia and their sharing of best practices are positive influences in the market, and we will continue our outreach to the Russian government to encourage further liberalization of the investment environment.

On the localization/import substitution front, we were pleased to see that in June Russia announced it would terminate its auto investment program as of July 1, 2018. We welcome Russia's commitment to its accession protocol.

On the other hand, we are concerned about a Ministry of Energy draft decree that would provide incentives for the purchase of domestically-produced gas turbines for thermal power plant modernization and construction projects. The Ministry said that the decree is meant to spur new domestic production of gas turbines.

In terms of government procurement, USRBC continues to encourage Russia to adopt non-discriminatory policies in procurement that allow its citizens access to a wider range of products and services, which could positively impact Russia's economic growth. We are, however, observing an increase in policies to restrict foreign goods and services in the market as Russia seeks to stimulate its domestic economy. The fact that Russia's own government is reporting an increase of violations in state procurement practices in the first half of 2018 (16 percent) is troubling.[1]

Our concern with respect to intellectual property right protection in Russia seeps into the government procurement realm as the Russian government is responsible for a significant amount of pharmaceutical purchases, and we have long been encouraging the Russian government to check the patent status of pharmaceutical products before advancing with state purchases.

More specifically on the protection of intellectual property in Russia, USRBC is troubled by the Russian government's ongoing discussions to expand the use of compulsory licensing to address access and pricing concerns, as well as to use compulsory licensing as a form of anti-trust enforcement. USRBC and its members are carefully tracking a series of proposed laws and amendments that would broaden the usage of compulsory licensing as well as expand the Russian government's authority and discretion to issue compulsory licensing that are inconsistent with TRIPS rules and Russia's WTO obligations. We will continue to engage the Russian government to work to ensure that our members' concerns and Russia's health needs are met as the discussion on compulsory licensing continues to evolve.

There are also several subsidies-related matters we are watching:

- Earlier this year, the Russian government introduced new decrees replacing others from 2016 to provide subsidies to compensate domestic manufacturers of construction equipment, agricultural equipment and automobiles for various expenses (such as warranty support, maintaining employment levels, and energy usage). Under the new rules, if a company has concluded a Special Investment

[1] RF Ministry of Finance, August 1, 2018; available at: https://www.minfin.ru/common/upload/library/2018/08/main/Monitoring_2_kv_2018.docx

Contracts, it is eligible for these subsidies. However, many foreign companies view the stringent regulatory requirements of SICs as outweighing the benefits of the subsidies provided.

- A draft decree emanating from the Ministry of Industry and Trade would strengthen localization efforts by requiring automotive manufacturers to utilize Russian-made metals in their manufacturing processes as a qualification for state subsidies. The public comment period on this proposal ended recently and the Russian government is considering amendments to the proposal.

- In February, the Russian government announced a new plan to give out subsidies for domestically-produced specialized machinery for the agricultural, roadbuilding and food processing industries. For 2018 alone, the government set aside 2 billion rubles from the federal budget for this program.

- In May 2018, the Russian government once again expanded the list of vehicles subject to its recycling fee. The fee now applies to specialty machinery such as forklifts and mini loaders. At the same time, the government increased the recycling fee on construction equipment and agricultural machinery. You may recall that domestic producers are eligible for subsidies that largely offset the fee – and for agricultural machinery that subsidy amounts to a 25-percent discount on the purchase price. There are certain local content and production criteria to qualify as domestic but imported machinery cannot qualify for the subsidy.

  We also understand that the Russian government increased the recycling fee for automobiles by an average of 15 percent this year, which has largely been offset for domestic manufacturers through these subsidy programs and falls mainly on imported cars.

USRBC is also tracking national treatment issues such as Russia's "Digital Economy" initiative to require the pre-installation of domestically-produced anti-virus software on all computers sold in Russia starting on August 1, 2020. Russia's Ministry of Economic Development has argued that the policy would not contradict WTO norms since it can be justified on national security grounds and would be required irrespective of the computer's country of origin. However, the requirement could lead to lack of competition in the Russian market and constitutes an advantage for domestic Russian anti-virus software producers.

Finally, with respect to customs duties, licensing and other matters, USRBC would point out that Russia has abided by its WTO obligations in reducing customs duties significantly in particular sectors, such as with respect to fast moving consumer goods, and it has taken steps to simplify its licensing regimes pursuant to its WTO obligations, but there are still challenges in some areas. For example, securing import licenses for encrypted products continues to be burdensome. Additionally, although personal computer flat-screen monitors are covered by the WTO's Information Technology Agreement (ITA), the Russian government has often classified them as other flat-screen displays like televisions and thus subjected them to import tariffs.

In conclusion, USRBC remains committed to serving our members' interests to address issues that affect their businesses, and to encouraging greater transparency and predictability in accordance with WTO rules.