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The review provides a detailed analysis of main trends in Russia's economy in 2015. The paper contains 6 big sections that highlight single aspects of Russia's economic development: the socio-political context; the monetary and credit spheres; financial sphere; the real sector; social sphere; institutional challenges. The paper employs a huge mass of statistical data that forms the basis of original computation and numerous charts.

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## Russia's participation in WTO trade disputes<sup>1</sup>

With Russia's accession to the World Trade Organization (WTO) on August 22, 2012, the country joined the mechanism of settlement of trade disputes in the WTO. Such a mechanism operates in the WTO in accordance with the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU).<sup>2</sup> So, from August 2012 Russia has the right to protect its trade interests by means of the above instrument.

The procedure for settlement of trade disputes in the WTO consists of the following five subsequent stages:

1) *holding of bilateral consultations* (within 60 days from the day of request to hold consultations);

2) *establishment of a panel* at the request of any party to the dispute and selection of panel members for considering the essence of the dispute (within 45 days from the day of submission of request to establish a panel);

3) *work of the panel* (within 6–9 months from the day of commencement of the work of the panel) and acceptance of the panel's findings by the Dispute Settlement Body (DSB) and the DSB's recommendations (about 60 days from the day of submission of the panel's findings);

4) *consideration of the case by the Appellate Body* in case of appeal by a party to the dispute (within 60–90 days from the day of filing of an appeal), acceptance of the Appellate Body's findings and notification of the DSB's recommendations to the parties (within 30 days from the day of submission of the findings by the Appellate Body);

5) *supervision by the DSB* over fulfillment of recommendations (maximum 15–18 months from the day of acceptance by the DSB of the findings by the panel or the Appellate Body).

According to the data as of the end of 2015, Russia participates in 38 WTO disputes: as a complaining country and defendant in 4 and 6 WTO disputes, respectively, while as a third party in 28 disputes.

### 4.9.1. WTO trade disputes in which Russia participates as a complaining country

From the day of Russia's accession to the WTO, Russia filed 4 complaints to the DSB: 3 complaints against the EU and one against Ukraine.

#### ***DS474: The EU – Methods of Cost Adjustment and Determination of Measures in Respect of Imports from Russia (Russia)***

On December 23, 2013, Russia turned to the WTO with a request to hold consultations with the EU on cost adjustment methods used by the EU in calculation of a dumping margin in antidumping calculations.<sup>3</sup>

In 2002, the EU granted Russia the status of a country with a market economy, but despite that fact in determination of the dumping the EU kept using the so-called energy adjustments in respect of Russian exporters. With such an approach, the fact of a dumping was determined on the basis of comparison of Russian export prices with those on internal markets of third

<sup>1</sup> Authors of this section: Baeva M. – RANEPА, Knobel A. – Gaidar Institute for Economic Policy.

<sup>2</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/dispu\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm).

<sup>3</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds474\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds474_e.htm).

countries. So, in calculation of a fair cost of goods the EU did not take into account prices at which Russian exporters bought gas or electric power, but used higher prices on the above commodities in other countries which did not have such a large amount of energy resources as Russia. As a result, the European antidumping measures largely limit Russian exports of such commodities to the EU.

It is to be noted that the EU replaces the duly supplied information on costs from Russian manufacturers and exporters by that from alternative sources, including statements by European manufacturers on introduction of antidumping measures. In addition to the above, the EU does not stop the antidumping investigation or antidumping measures when they are not needed and charges unreasonably higher antidumping duties above the dumping margin. Also, according to the Russian side the EU uses antidumping duties as a measure against alleged government subsidies.

As the dispute in question between Russia and the EU failed to be resolved at the stage of consultations, on June 4, 2014 Russia turned with a request to the DSB to establish a panel and at the DSB meeting held on July 22, 2014 such a panel was established. At present, that dispute is at the stage of selection of panel members.

#### ***DS476: The EU – Measures which Have an Effect on the Energy Sector (Russia)***

On April 30, 2014, Russia turned to the WTO with a request to hold consultations with the EU on application of measures of the so-called *Third Energy Package*.<sup>1</sup>

The EC adopted the Third Energy Package in July 2009. The main document dealing with the natural gas market (Directive 2009/73/EU) sets general requirements to transportation, distribution, supply and storage of natural gas (including liquefied natural gas) in the territory of the EU.

According to the Third Energy Package, in the territory of the EU owners of main pipe-lines cannot be companies engaging in production of gas. They should either sell their assets in the EU or assign the right to manage pipe-lines to independent companies from the EU. In addition to that, if operator-companies are controlled by foreigners they have to go through a special certification procedure which sets additional requirements to such operators. For example, they have to prove that there is no threat to the EU energy security which procedure is not required if the pipeline is controlled by an EU company. According to Russia, that and other provisions of the Third Energy Package are in conflict with obligations of the EU in the WTO as regards the fundamental principles of nondiscrimination and access to the market.

As the dispute in question failed to be resolved at the stage of consultations, on May 11, 2015 Russia turned to the WTO with a request to establish a panel and at the DSB meeting held on July 20, 2015 such a panel was set up. At present, the dispute between Russia and the EU as regards the Third Energy Package is at the stage of selection of panel members.

#### ***DS493: Ukraine – Antidumping Measures in Respect of Ammonium Nitrate (Russia)***

On May 7, 2015, Russia turned to the WTO with a request to hold consultations with Ukraine as regards Ukraine's antidumping measures introduced in respect of imports of ammonium nitrate from Russia.<sup>2</sup>

In accordance with Decision No.AD-315/2014/4421-06 of July 1, 2014 of Ukraine's Inter-Agency International Trade Commission, duties on ammonium nitrate imports from Russia

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<sup>1</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds476\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds476_e.htm).

<sup>2</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds493\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds493_e.htm).

were doubled – from 11.91% to 36.03% (for OAO Dorogobuzh – up to 20.51%) – with extension of their period for another five years. In 2014, the share of exports of ammonium nitrate (customs commodity code: 310230) to Ukraine amounts to 6.5% in Russia’s total volume of that commodity, while its share in Ukraine’s total imports, to nearly 89%.<sup>1</sup>

The essence of Russia’s claim consists in adjustment of the cost in carrying out of anti-dumping investigations as it was in the dispute with the EU (DS474). In carrying out antidumping investigations in respect of ammonium nitrate, Ukraine does not take into account in calculation of the cost of production prices at which Russian producers bought electric power, but used instead prices from third countries, that is, applied the so-called “energy adjustments”. According to Russia, Ukraine committed a number of violations in determination of the fact of dumping, in particular, no comparison of export prices on ammonium nitrate exported from Russia to Ukraine with the fair cost of similar goods meant for consumption in Russia was made.

So, Ukraine applies antidumping duties that exceed the dumping margin which was determined by means of comparison of the constructed fair cost of ammonium nitrate calculated by Ukraine on the basis of the information on costs and prices which have nothing to do with those on similar goods in Russia. In addition to the above, in carrying out antidumping investigation Ukraine did not give an opportunity to all the interested parties to protect their own interests as it failed to provide either non-confidential information or a summary of confidential information. Also, Ukraine carried out revisions of antidumping measures without any sufficient evidence of the need to do that.

Despite the fact that the recommended deadlines for holding consultations have already expired, the dispute in question is still at the stage of consultations.

***DS494: The EU – Methods of Cost Adjustment and Determination of Antidumping Measures in Respect of Imports from Russia (Russia) (the second complaint)***

On May 7, 2015, Russia filed another complaint against the EU as regards energy adjustment methods used by the EU as per Article 2.3 and Article 2.5 of the EU Council’s Regulations No. 1225/2009 of November 30, 2009 on Protection from Dumping Imports from Countries which are not EU Member-States for calculation of a dumping margin in carrying out of anti-dumping investigations and revision of antidumping measures.<sup>2</sup>

Russia’s above complaint against the EU is related in particular to the EU’s antidumping measures in respect of Russian ammonium nitrate; those measures were applied within a five-year period as a result of revision of antidumping measures. As complaints are actually similar, the complaint in question comprises also antidumping measures introduced against imports of some Russian welded tubes and tubes made of steel and alloy-free steel, including measures applied within a five-year period as a result of revision of antidumping measures.

Russia believes that in carrying out by the EU of antidumping investigations in respect of ammonium nitrate and welded tubes the EU violated its obligations in the WTO as in calculation of the cost of production they used third countries’ prices on electric power rather than Russian domestic prices, that is, energy adjustments were utilized and that situation caused considerable damage to Russian suppliers. According to the estimates of Russian experts, the above EU’s measures against Russia resulted in a situation where exports of Russian welded tubes to the EU virtually stopped (the measures have been in effect from 2008), while exports

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<sup>1</sup> UN COMTRADE database // <http://comtrade.un.org/>.

<sup>2</sup>[https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds494\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds494_e.htm).

of ammonium nitrate from Russia to the EU fell 1.5 times over as compared to 2012 (in 2012 it amounted to nearly \$220m).<sup>1</sup> According to the data of 2014, about 30% of exports of Russian disputable goods goes to the EU, that is, it covers nearly 11% of European imports of ammonium nitrate (customs commodity code: 310230) and welded tubes (customs commodity code: 7305).<sup>2</sup>

In the course of consultations with the EU, Russia raised a number of disputable issues specified among other things in the first complaint against the EU on that matter (DS474). In addition to the above, according to the Russian side the EU carried out revisions of antidumping measures due to expiry of the period without substantial evidence of dumping's resumption or continuation. At present, the dispute in question is at the stage of consultations though the recommended deadlines for them are already over.

#### 4.9.2. WTO trade disputes in which Russia acts as a defendant

Within the frameworks of the WTO, Russia acts as defendant in six disputes. In most cases, complaints have been filed by the EU; Japan and Ukraine lodged one complaint each.

##### ***DS462, DS463: Russia – Car Recycling Tax on Transportation Means (DS462 (The EC), DS463 (Japan))***

On July 9, 2013 and July 24, 2013, the EU<sup>3</sup> and Japan<sup>4</sup>, respectively, turned to the WTO with a request to hold consultations as regards the so-called car recycling tax imposed on transportation means. The above tax was introduced in Russia from September 1, 2012 due to approval of Article 24 “Car Recycling Tax” of Chapter V of Federal Law No.89-FZ of June 24, 1988 on Industrial and Consumption Waste and Article 51 as amended of the Budget Code of the Russian Federation.<sup>5</sup>

The EU's main claim consists in the fact that while domestic transportation means in Russia may formally be subject to a car recycling tax, in reality under certain conditions they were actually exempted from it. The car recycling tax is not charged on vehicles manufactured by entities which have assumed a responsibility to ensure a subsequent safe handling of waste occurred as a result of a loss by transportation vehicles of their use properties. It is to be noted that a manufacturer-entity should be a legal entity registered in the territory of the Russian Federation. Under certain conditions, exemption from payment of the car recycling tax is granted to vehicles imported from Belarus and Kazakhstan.

In addition to the above, according to the EU the pattern of the car recycling tax is a kind of protection of national production. The above tax is a progressive one in respect of different categories of transportation vehicles. Also, the difference is made between “new” transportation vehicles and “those manufactured over three years ago”, so the levels of tax rates greatly vary.

As consultations failed to resolve the dispute in question, on October 11, 2013 the EU turned with a request to the DSB to set up a panel and on November 25, 2013 it was established. From

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<sup>1</sup> Russia filed a complaint in the WTO against Ukraine and the EU // <http://www.wto.ru/2015/05/07/>

<sup>2</sup> UN COMTRADE database // <http://comtrade.un.org/>.

<sup>3</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds462\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds462_e.htm).

<sup>4</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds463\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds463_e.htm).

<sup>5</sup> Resolution No. 870 of August 30, 2012 of the Government of the Russian Federation on Car Recycling Tax on Wheeled Vehicles.

1 January 2014, the Russian Government obligated domestic manufacturers to pay a car recycling tax on a common basis.<sup>1</sup> Despite that, the EU did not recall its request in the WTO to set up a panel as it believes that the amount of the tax should not depend on a car engine volume and there is a big difference between the tax amount charged on new and used cars in tax calculation methods. At present, the dispute in question is at the stage of selection of panel members.

Japan which filed a request for consultations with Russia as regards car recycling tax, too, has similar claims and reasons. In addition to the above, Japan believes that Russia violated the Agreement on Technical Barriers in Trade.

***DS475: Russia – Measures Affecting the Imports of Live Hogs, Pork and Other Pork Products (the EU)***

Early in April 2014, the EU turned to the WTO with a request to hold consultations with Russia as regards a ban on delivery to Russia of pork and hogs from the EU countries due to a threat of African pig plague (APP) and introduction of limitations on delivery of all the types of prefabricated pork meat products from Poland and Lithuania.<sup>2</sup>

The Rosselkhoznadzor proposed to carry out regionalization of the EU territory as regards APP and introduce a new veterinary health certificate in respect of pork meat; the certificate should reflect changes in the epizootic situation in the EU. The EU calculated that the total ban on pork deliveries to Russia was a disproportionate measure which was in conflict with WTO norms as in reality there were only a few insignificant cases of APP infection of wild boars on the border with Belarus and those cases were effectively localized.<sup>3</sup> In addition to the above, the EU accused Russia of a failure both to notify properly WTO-members of goods in respect of which the measures in question were applied and provide a summary report on substantiation of those measures and their goals. So, Russia does not provide a reasonable period of time to other WTO-members to prepare comments and discuss the issue.

It is to be noted that the share of the EU's exports of pork and pork products to Russia in the total volume of the EU's exports of those products amounts to 9%, the share of the imports of pork and pork products from the EU in Russia's total imports of those products, to 57%, the share of exports of live hogs from the EU to Russia in the EU's total exports of live hogs, to 0.6%, while the share of imports of live hogs from the EU in Russia's total imports of live hogs, to 54%.<sup>4</sup>

As consultations failed to resolve the dispute, on June 27, 2014 the EU turned with a request to the DSB to set up a panel and a month later it was established. On April 22, 2015 the chairman of the panel informed the DSB that submission of the panel's findings was expected in February 2015 in accordance with the time schedule approved upon consultations between the parties.

The dispute in question points to importance of application of sanitary and phytosanitary measures in accordance with the WTO rules and the need of abandoning utilization of such measures as non-tariff ones which limit trade without substantial evidence confirmed on the basis of research.

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<sup>1</sup> Federal Law No.278-FZ of October 21, 2013 on Amendment of Article 24.1 of the Federal Law on Industrial and Consumer Waste.

<sup>2</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds475\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds475_e.htm).

<sup>3</sup> The WTO Expertise Center // <http://wto.ru/documents.asp?f=sogl&t=13>.

<sup>4</sup> UN COMTRADE database // <http://comtrade.un.org/>.



***DS479: Russia – Anti-Dumping Duties on Light Commercial Motor Vehicles from Germany and Italy (the EU)***

On May 21, 2014, the EU turned to the WTO with a request to hold consultations with Russia as regards introduction of anti-dumping duties against light commercial motor vehicles from Germany and Italy.<sup>1</sup>

On May 14, 2013, the Eurasian Economic Commission (EEC) introduced for the term of five years anti-dumping duties on light commercial motor vehicles – with full weight of 2.8 tons to 3.5 tons included, diesel engine working cylinder volume of max. 3000 cubic cm and a “van” or “hatchback” body style – manufactured in Germany, Italy and Turkey. The duties were set as follows: 11.1% of the customs value in respect of Ford Otosan Sanayi Anonim Sirketi; 23% in respect of Italian Peugeot Citroen Automobiles SA; 29.6% in respect of manufacturers from Germany; 23% and 11.1% in respect of other manufacturers from Italy and Turkey, respectively<sup>2</sup>. In 2004, the import of light commercial vehicles from Germany in the total volume of Russian imports of disputable goods amounted to nearly 30%, while in Germany’s total exports of those goods, to 4%. As regards Italy, the above values are somewhat lower: 12% and 3%, respectively. As regards Turkey, in 2014 the share of imports of disputable goods from Turkey to Russia fell from less than 1% to 0% as compared to 2013.<sup>3</sup>

The EU believes that in carrying out antidumping investigations and taking measures in respect of light commercial vehicles from Germany and Italy Russia has violated a number of requirements of the Antidumping Agreement. In particular, it failed to determine properly the fair value, export prices and a dumping margin for each exporter on the basis of the available information, nor did Russia analyze all the economic factors affecting the state of its relevant industry, so, the damage caused to the industry was incorrectly attributed to the dumping imports as other factors were not taken into account. A cause-and-effect relation between imports and alleged damage to the domestic industry in question was not confirmed, either.

In addition to the above, according to the EU throughout the entire period of investigation Russia failed to provide the interested parties with the information related to identification of the fact of dumping or damage and treated for no good reasons the information from domestic manufacturers as confidential. It is to be noted that Russia does not require domestic manufacturers to provide a non-confidential summary which includes the essence of the information supplied on a confidential basis.

On September 25, 2014, the EU turned to the WTO with a request to set up a panel and at the DSB meeting on October 20, 2014 it was established. On June 11, 2015, the chairman of the panel informed the DSB that the work of the panel was postponed due to a lack of lawyers with the required experience at the Secretariat, so final findings for the parties involved could be expected not earlier than the end of 2016.

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<sup>1</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds479\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds479_e.htm).

<sup>2</sup> Decision No.113 of May 14, 2013 of the Eurasian Economic Commission on Application of Antidumping Measures by Way of Introduction of Antidumping Duties in Respect of Light Commercial Vehicles Manufactured in Germany, Italy and Turkey and Brought to the Single Customs Territory of the Customs Union.

<sup>3</sup> UN COMTRADE database // <http://comtrade.un.org/>.

***DS485: Russia – Calculation of Import Duties on Some Agricultural and Industrial Goods (the EU)***

On October 31, 2014, the EU turned to the WTO with a request to hold consultations with Russia due to the fact that Russia charged import duties on some goods and that was in conflict with its obligations when it joined the WTO.<sup>1</sup>

In particular, duties of 15% or 10% on paper and cardboard applied in compliance with Decision No. 9 of January 29, 2014 of the Collegium of the Eurasian Economic Commission on Setting of the Customs Union's Import Customs Duty Rates of the Single Customs Tariff in Respect of Individual Types of Paper and Cardboard exceed the combined level of 5%. In addition to the above, as regards other goods, including palm oils and their fractions, refrigerators and combined refrigerators-freezers in cases where the customs value is below a certain level duties are charged above the combined level and that situation is a violation of the statutes on estimation of the customs value.<sup>2</sup>

In 2014, the share of imports from the EU to Russia of disputable goods amounted to 50% of the volume of Russian imports of those goods and nearly 4% of the total volume of European imports of those goods.<sup>3</sup>

As the dispute in question failed to be resolved at the stage of consultations, the EU turned to the WTO on February 26, 2015 with a request to set up a panel and at the DSB meeting on March 25, 2015 it was established. At present, the dispute in question between the EU and Russia is dealt with by the panel.

***DS499: Russia – Measures Limiting Imports of Railway Equipment and its Components (Ukraine)***

On October 21, 2015, Ukraine turned to the WTO with a request to hold consultations with Russia as regards measures limiting imports of railway equipment and its components (in particular, cars and railway points).<sup>4</sup>

On July 15, 2011, the Commission of the Customs Union of the Republic of Belarus, Republic of Kazakhstan and the Russian Federation (CCU) took Decision No.710 on Approval of Technical Regulations No.01/2011 of the Customs Union on Safety of Rolling Stock, Technical Regulations No.002/2011 on Safety of High-Speed Railway Transport and Technical Regulations No.003/2011 on Safety of the Railway Transport Infrastructure (hereinafter – Decision No.710 of the CCU). According to new rules, from August 2, 2014 all the certificates confirming components' and rolling stocks' compliance have to be registered with the Federal Budget Entity "Certification Register on the Federal Railway Transport" (FBE CRFRT).

By Decision No.285 of December 2, 2013 of the Collegium of the Eurasian Economic Commission on Amendment of Decision No.710 of July 15, 2010 of the Commission of the Customs Union, Decision No.710 of the Commission of the Customs Union was amended. A transition period (till August 1, 2016) for application of compliance certificates issued to manufacturers of components and rolling stocks before introduction of the above Technical Regulations was set. In addition to the above, a transition period (till August 1, 2016) was set for those goods

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<sup>1</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds485\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds485_e.htm).

<sup>2</sup> Decision No.52 of July 16, 2014 of the Collegium of the Eurasian Economic Commission on Setting of the Rates of Import Customs Duties in Respect of Individual Types of Goods in Accordance with Obligations of the Russian Federation Within the WTO Frameworks.

<sup>3</sup> UN COMTRADE database // <http://comtrade.un.org/>.

<sup>4</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds499\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds499_e.htm).

which earlier were not subject to mandatory confirmation of compliance in the form of certification. Compliance certificates earlier registered with the FBE CRFRT and issued to Ukrainian manufacturers of railway goods started to be suspended late in 2013.

Ukraine believes that Russian competent authorities justified suspension of those certificates both by technical issues and “a lack of relevant conditions for annual inspections to be carried out” of Ukrainian manufacturers’ production facilities. Despite the repeated requests, Ukraine’s exporters and authorized authorities did not receive from Russia explanations of suspension of compliance certificates. It is to be noted that in other countries of the Customs Union, there is no problem to receive such compliance certificates on the basis of Technical Regulation No.001/2011. However, those certificates are regarded invalid by Russian authorized authorities.

In December 2014, Ukrainian manufacturers of railway points applied for certificates in accordance with new requirements specified in the Customs Union’s Technical Regulations No. 003/2011. However, in February 2015 those applications of Ukrainian manufacturers were turned down by Russian competent authorities.<sup>1</sup>

As a result of the above, the export of railway equipment and its components from Ukraine to Russia fell considerably: from \$1.7bn in 2013 to \$600m in 2014. It is to be noted that from 2014 to 2014 there was a considerable reduction of nearly 66% in Ukrainian exports of disputable goods in general. The share of imports of disputable goods from Ukraine to Russia in the total Ukrainian exports of those goods fell within that period from 61% to 35%, while in Ukraine’s exports it remained virtually on the same level and amounted to 73%.<sup>2</sup>

Ukraine’s main claims are related to the fact that Russia discriminates against goods of the Ukrainian origin as compared to similar goods from other WTO member-states and domestic products. It is to be noted that Russian measures resulted in creation of excessive obstacles in the international trade, but Russia did not respond to Ukraine’s request to explain the need of such controversial measures. In addition to the above, Ukraine believes that the Russian competent authorities violated a number of procedures for evaluation of compliance. It is to be noted that requirements of Russian competent authorities as regards evaluation of compliance were beyond the required ones set to the information and amount of payment. At present, the dispute in question is at the stage of consultations.

#### 4.9.3. WTO trade disputes in which Russia participates as a third party

From the day of Russia’s accession to the WTO in August 2012, Russia participated in 28 disputes within the WTO frameworks as a third party. Russia’s participation in one or another dispute is usually justified not only by substantial trade interest alone, but also, to a greater extent, a practice of participation in disputes on concrete issues, as well as interest in application of some or other WTO’s norms and rules. In most cases, Russia joins the disputes against the EU, China and the US.

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<sup>1</sup> Letter No. 01305 of February 9, 2015 of the Federal Budget Entity “Certification Register on the Federal Railway Transport” on Rejection of the Application to Issue New Compliance Certificates in Respect of Some Railway Goods (Railway Points).

<sup>2</sup> UN COMTRADE database // <http://comtrade.un.org/>.

All the WTO disputes which Russia joined as a third party can be notionally divided in the following three main issues<sup>1</sup> related to:

- 1) a ban on imports (for ecological or other reasons) (DS400, DS401, DS469, DS484, DS495);
- 2) antidumping, compensation and special protectionist investigations and measures introduced on the basis thereof (DS414, DS437, DS449, DS454, DS468, DS471, DS473, DS480, DS488, DS490, DS496);
- 3) export limitations (DS431, DS432, DS433);
- 4) intellectual property rights (DS441, DS458, DS467);
- 5) subsidies (including tax and other privileges) (DS456, DS472, DS487, DS497, DS489);
- 6) tariffs (DS492).

It is to be noted that sometimes formally different disputes originating from different complaining countries are related to one and the same alleged limitation/violation of the defendant, for example, disputes of Canada (DS400) and Norway (DS401) over the ban on imports and sale of seal products to the EU.

***DS400, DS401: The EU – Measures Banning Imports and Sale of Seal Products (DS400 (Canada), DS401 (Norway))***

On November 2, 2009 and November 5, 2009, Canada<sup>2</sup> and Norway<sup>3</sup>, respectively, turned to the WTO with a request to hold consultations with the EU as regards the ban on imports and sale of seal products introduced in compliance with EU Regulations No. 1007/2009 and EU Regulations No. 737/2010.

The main claim of complaining countries is related to a discriminating component of the measure as there are certain exceptions (in case of the natives' traditional hunting) which grant privileged access for seal products produced in the EU and some third countries (Greenland) to the EU.

The disputes in question failed to be resolved at the stage of consultations, so, on October 4, 2012 at the request of Canada and Norway a joint panel was set up and it presented its findings on November 25, 2013, while the Appellate Body (both complaining countries and defendants lodged an appeal) issued its findings on May 22 2014. The Appellate Body came to a conclusion that the EU's technical measures were not a technical regulation, however, it recognized that they violated the WTO's main principle, that is, the most favorable treatment regime (MFT) as the same privileges which were granted to seal products from Greenland were not granted unconditionally and promptly to those from Canada and Norway. In addition to the above, the Appellate Body believes that the EU failed to justify properly application of the above measures by "general exceptions" in accordance with Article XX of the 1994 General Agreement on Tariffs and Trade (GATT-1994).

The DSB's recommendations as regards harmonization of the EU's measures with the norms and rules of the WTO were made public on June 18, 2014. The parties agreed on a reasonable period for the EU – 16 months from the day of approval of the panel's findings – to implement the decision of the DSB.

Russia took interest in participation in that dispute as from March 16, 2009 it stopped seal production and banned trade in Greenlandic seal skins (including those imported from other

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<sup>1</sup> See Bayeva (2014) Trade Disputes in Which Russia Participates within WTO Frameworks and Mechanisms of Resolution Thereof // The Russian Foreign Economic Bulletin, 3. pp. 75-90.

<sup>2</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds400\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds400_e.htm).

<sup>3</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds401\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds401_e.htm).

countries). In accordance with Decision No.134 of August 16, 2012 of the Eurasian Economic Commission and amendments introduced by Decision No. 30 of April 21, 2015 of the Collegium of the Eurasian Economic Commission, the list of goods banned for import to the customs territory of the Eurasian Economic Union and (or) export from the customs territory of the EEU includes Greenlandic seal and seal calf products. In accordance with the legislation of the EEU, the imports of the above products are permitted if they were produced by way of traditional hunting carried out by the natives of the Arctic and Subarctic regions, including the Yupiks and the Inupiat (Alaska), the Inuits and the Inuvialuits (Canada) and the Kalaallits (Greenland) and that fact is to be proved by a certificate – issued in conformity with the form approved by the European Economic Commission – of the country of origin.

Prior to 2009, Russia used to be a major sales market for seal skins; it imported up to 90% of seal skins from Greenland. The dispute in question is the case where Russia is on the side of the defendant and not the complaining party as Russia has a regulation which is similar to that of the defendant.

***DS469: The EU – Measures in Respect of Atlantic-Scandinavian Herring (Denmark)***

In November 2013, on behalf of the Faroe Islands Denmark turned to the WTO with a request to hold consultations with the EU as regards measures taken against the Faroe Islands regarding Atlantic-Scandinavian herring and North-Eastern Atlantic scomber.<sup>1</sup>

In accordance with the international law principles, the Faroe Islands use sovereign rights for the purpose of utilization, preservation and management of living marine resources. The EU banned imports to its territory of the above types of fish which was caught by fishing boats sailing under the flag of the Faroe Islands; in addition to the above a ban was introduced on production in the EU of products made of the above types of fish.

According to the complaining country, the EU's above measures mainly violate the most favorable treatment regime and provisions of the article on general abolishment of quantitative limitations – under the above article it is prohibited to introduce any bans on imports or quantitative limitations (by way of quotas, import or export licenses and other measures) apart from tax duties or other charges with the exception of a number of cases – and limit freedom of transit.

Despite the fact that on January 8, 2014 Denmark turned to the WTO with a request to set up a panel which was established by the DSB two months later the dispute in question was settled by means of a mutually acceptable solution achieved on August 21, 2014. The EU agreed to put an end to the ban on imports and other measures against the Faroe Islands in respect of disputable goods.

Russia's interest in participation in the dispute in question is mainly justified by the fact that Russia is one out of five coastal states between whose respective zones Atlantic-Scandinavian herring is distributed. So, an indirect benefit for Russia consists in the fact that if the EU does not have the right to ban imports of Atlantic-Scandinavian herring and herring-processed products from the countries between whose respective zones that sort of fish is distributed the EU has no right to ban imports of disputable goods from Russia, either.

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<sup>1</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds469\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds469_e.htm).

***DS484: Indonesia – Measures in Respect of Chicken Meat and Chicken Meat Products (Brazil)***

On October 16, 2014, Brazil turned to the WTO with a request to hold consultations with Indonesia on some measures introduced by the latter in respect of imports of chicken meat and chicken meat products.<sup>1</sup>

According to Brazil, Indonesia applies restrictive measures and procedures which impede imports of Brazilian chicken meat and chicken meat products to the Indonesian market. For example, Indonesia does not accept the Brazilian hygienic certificate despite the fact that Brazil provided all the required and even additional information. According to the Brazilian side, Indonesia's measures which are not based on relevant international standards, rules and recommendations, in particular, those related to the quarantine on imports of chicken meat and chicken meat products are introduced beyond the necessary level of control and limit and discriminate against Brazilian exports.

Indonesia actually introduced a non-automatic import licensing regime in respect of chicken meat and chicken meat products. According to Brazil, that regime unjustifiably limits the trade. A license can be secured only for a short period of time and includes limitations as regards ports of arrival. In addition to the above, imports of chicken meat and chicken meat products are to be approved in advance by the Ministry of Agriculture which has the right to limit the quantity, places of destination and/or use of those products. The relevant documents have short terms of validity, too, and the mode of issuing thereof is not quite transparent. According to Brazil, Indonesia introduces pre-shipment inspection requirements which may be of a discriminatory nature and cause unjustified delays. In addition to the above, measures related to a new pricing policy and import management – which measures may impose limitations on the domestic supply of “strategic goods” including chicken meat – are applied.

On October 15, 2015, Brazil turned to the WTO with a request to set up a panel and on December 3, 2015 it was established. At present, the dispute in question is at the stage of selection of panel members.

Participation in that dispute is interesting to Russia primarily in terms of procedural insight into a wide-range of the WTO's norms and rules, including those in the field of sanitary and phytosanitary measures and technical barriers. It is to be noted that Russia does not export disputable goods to Indonesia which situation may be related to some extent to Indonesia's limitations on imports.<sup>2</sup>

***DS495: Republic of Korea – A Ban on Imports and Requirements to Carrying Out of Testing and Certification of Radioactive Materials (Japan)***

On May 21, 2015, Japan turned to the WTO with a request to hold consultations with the Republic of Korea as regards the following measures introduced by the latter after the accident at the Fukushima-1 nuclear power plant due to the earthquake in Japan in March 2011<sup>3</sup>:

- 1) a ban on imports of some food products;
- 2) additional requirements to carrying out of testing and certification of existence of specific radioactive materials;
- 3) a number of alleged violations of obligations as regards transparency in accordance with the Agreement on Application of Sanitary and Phytosanitary Measures.

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<sup>1</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds484\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds484_e.htm).

<sup>2</sup> UN COMTRADE database// <http://comtrade.un.org/>.

<sup>3</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds495\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds495_e.htm).

Japan complains mainly about lack of transparency and not about the fact that those measures were introduced because the Republic of Korea failed to publish properly the list of those measures with specification of evidence on the basis of the information supplied on burial of radioactive waste in Japan. Japan repeatedly made an effort to discuss those measures with the Republic of Korea and hold joint meetings of technical experts. Japan sought to show the Republic of Korea that sanitary and phytosanitary measures used in both the countries were similar. According to the complaining country, the Korean measures limit exports from Japan and are not based on relevant international standards and recommendations; it is to be noted that the Republic of Korea failed to provide Japan with the information which could help Japan understand the position of the Republic of Korea as regards those measures and resolve the dispute. Japan believes that the measures in question violate the principle of the national regime as the requirements to the information used for control and checking and approval procedures in respect of import goods were higher than those established for similar domestic products.

As the dispute in question failed to be resolved through consultations, on August 20, 2015 Japan turned to the WTO with a request to set up a panel and at the DSB meeting on September 28, 2015 it was established.

Russia participates in that dispute as after the Fukushima accident it introduced a ban on imports of fish from Japan; the ban was lifted only in July 2015. Also, the dispute in question is interesting to Russia in terms of procedures, while the practice of participation in the discussion is useful to Russia in terms of application of sanitary and phytosanitary measures in compliance with the WTO's norms and rules.

#### ***DS414: China – Compensation and Antidumping Duties on Cold-Rolled and Regular Grain-Oriented Steel from the USA (the USA)***

On September 15, 2010, the US turned to the WTO with a request to hold consultations with China as regards introduction of compensation and antidumping duties in compliance with Public Notification No.21 of 2010 of the Ministry of Trade of China in respect of cold-rolled and grain-oriented steel from the US.<sup>1</sup>

The US's main claims are related to the procedure for carrying out compensation and anti-dumping investigations in China. In particular, according to the US in such investigations there is lack of an adequate summary of confidential information, important facts are concealed, duties for all other exporters are determined incorrectly, price effects of the alleged dumping imports were determined without unbiased analysis and proper evidence and the cause-effect relation between the alleged dumping of imports and damage to the industry was determined improperly.

To solve that dispute a panel was established on March 25, 2011. The panel's findings were presented on June 15, 2012. Late in July 2012, China filed an appeal to the Appellate Body whose findings were presented on October 18, 2012. In mid-November 2012, the DSB rules that China introduced antidumping and compensation duties in respect of cold-rolled and regular grain-oriented steel from the US in a way which violates China's obligations under the agreements on antidumping, subsidies and compensation measures and advised China to bring those measures in compliance with provisions of the above agreements.

On July 31, 2013, China adjusted measures which caused the dispute in accordance with the procedure provided for by Public Notification No.51 of 2013 of the Ministry of Trade of China and annexes thereto. However, in mid-January 2014 the US requested consultations, while on

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<sup>1</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds414\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds414_e.htm).

February 13, 2014 the US turned to the WTO with a request to set up a panel on the procedure for fulfilment of obligations and such a panel was later established. The US believes that China's revision of its measures does not fully comply with the WTO's norms and rules. On March 27, 2014, a panel for checking compliance was established and on July 31, 2015 the panel's findings were presented to the parties to the dispute. A month later, at its meeting the DSB accepted the above findings with recommendations to bring the measures in compliance with the WTO's norms and rules. In the meantime, China reported that on April 10, 2015 it abolished antidumping duties on anisotropic electrical steel not only from the US, but from Russia, as well.

From February 26, 2014, Russia joined that dispute as a third party. For Russia, that issue is very important as those antidumping and compensation measures are applied not only in respect of cold-rolled and regular grain-oriented steel from the US, but from Russia, as well. So, apart from the practice of settlement of disputes regarding antidumping and compensation measures Russia indirectly benefited from participation in that dispute because those duties were abolished.

#### ***DS437: the US – Compensation Duties on Some Goods from China (China)***

On May 25, 2012, China turned to the WTO with a request to hold consultations with the US as regards introduction by the latter of compensation duties on some Chinese goods.<sup>1</sup>

According to China, it encounters various difficulties in accessing the US investigation findings on which basis compensation measures against China were introduced. China refers to about 20 such investigations initiated by the US and related mainly to metallurgical and steel industry goods (for example, pipelines, steel wheels, steel wires and other). China believes that the US determines incorrectly a state-owned enterprise which grants similar subsidies by way of sale from a parental company to a subsidiary as a "public agency". Also, China noted that the US Trade Department initiated an investigation without sufficient evidence; in particular, it could not prove that a subsidy was specific to the enterprise or industry. It is to be noted that the US Trade Department determines incorrectly the advantage (as the basis for dismissal of the existing actual sale prices in China as a reference point), thus distorting the current market conditions in China.

On August 20, 2012, China turned with a request to the DSB to set up a panel, a month later the panel was established and it presented its findings on July 14, 2014. Late in August, both the sides filed appeals to the Appellate Body. On January 16, 2015, the DSB accepted the Appellate Body's and the panel's findings with recommendations to bring measures in compliance. On October 9, 2015, arbitration set a reasonable period (which expires on April 1, 2016) for the US to bring its measures in compliance with the WTO's norms and rules.

Russia's interest in participation in the dispute in question is justified not only by substantial trade interest in disputable industries (the metallurgy and steel industries), but also the practice of participation in disputes on compensation measures to get a better understanding of enforcement of relevant provisions of the Agreement on Subsidies and Compensation Measures.

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<sup>1</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds437\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds437_e.htm).



***DS449: The US – Compensation and Antidumping Measures in Respect of Some Goods from China (China)***

On September 17, 2012, China initiated a dispute with the US as regards compensation and antidumping measures in respect of some goods from China.<sup>1</sup>

China carries out about 30 compensation investigations and 30 antidumping investigations which mainly deal with metallurgical and steel industry goods. China's main claims are related to:

- Part 1 of US Public Law 112-99 “Act on Application of Compensation Duties under US Tariff Act 1930 in Respect of Non-Market Economies and For Other Purposes” which became effective on March 13, 2012;
- Existence of antidumping measures along with compensation measures under which “dual means of damage compensation” arise in 25 parallel compensation and antidumping investigations initiated in the 2006-2012 period and covering imports from China as a country with a non-market economy in accordance with the US legislation.

In addition to the above, China believes that the US violates the 1994 GATT as provisions of the US legislation were not “published immediately” to be available for familiarization with by governments and traders and started to be applied in the US prior to official publication. It is to be noted that according to China US laws and norms related to application of compensation measures in respect of imports from countries with non-market economies are not “unified, impartial and justified”.

To solve the dispute, at China's request a panel was established on December 17, 2012 and it presented its findings late in March 2014. In April 2014, both the parties to the dispute filed appeals as regards legal norms used in the panel's findings and interpretation thereof. The Appellate Body's findings were presented on July 7, 2014. At its meeting on July 22, 2014, the DSB accepted the findings of the Appellate Body and the panel's findings – adjusted by those of the Appellate Body – with recommendations for the US to bring its measures in compliance with the US obligations in the WTO. On February 20, 2015, China and the US informed the DSB that they agreed on a reasonable period needed by the US for fulfillment of the recommendations and requirements of the DSB, that is, 12 months from the day of acceptance of the findings of the Appellate Body and the panel; then the above period can be extended by the parties. On August 21, 2015, China and the US informed the DSB of the application procedure.

Russia participated in the dispute in question as it had substantial interest in disputable industries (the metallurgy and steel industry). In addition to the above, Russia is interested in the practice of participating in disputes related to antidumping and compensation measures to get a better understanding of enforcement of the WTO's relevant provisions.

***DS454: China – Antidumping Measures in Respect of Heavy Duty Seamless Stainless Steel Pipes (“HP-SSST”) from Japan (Japan)***

On December 20, 2012, Japan turned to the WTO with a request to hold consultations with China as regards antidumping measures in respect of heavy-duty seamless stainless steel pipes (“HP-SSST”) from Japan set out in Notification No.21 and Notification No.72 of 2012 of the Ministry of Trade of China.<sup>2</sup>

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<sup>1</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds449\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds449_e.htm).

<sup>2</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds454\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds454_e.htm).

Japan's main claims are related to the fact that antidumping investigations carried out by China and antidumping measures introduced on the basis of those investigations in respect of disputable goods do not comply with the WTO's norms and regulations. In particular, it is related to the beginning of the investigations and their progress, determination of the fact of damage, evidence, public notification and explanation of decisions. In addition to the above, the Ministry of Trade of China failed to provide in a proper way its methods of calculation of a dumping margin.

On April 11, 2013, Japan turned to the WTO with a request to set up a panel and it was established on May 24, 2013, while on February 13, 2015 the panel presented its findings. Late in May 2015, both the sides filed appeals, and the Appellate Body presented its findings on October 14, 2015. On October 28, 2015 the DSB accepted the findings of the panel and the Appellate Body with recommendations for China to bring its measures in compliance with the WTO's norms and rules.

Russia's interest in participation in the above dispute is justified both by its trade interest in the dispute and the fact that procedures for carrying out antidumping investigations in China are important to Russia in terms of antidumping measures applied by China in respect of Russian goods (mainly chemical industry goods).

#### ***DS468: Ukraine – Special Protective Measures as Regards Determination of Motor Cars (Japan)***

On October 30, 2013, Japan turned to the WTO with a request to hold consultations with Ukraine as regards protective measures introduced by the latter in respect of imports of some cars and the investigation which resulted in application of those measures.<sup>1</sup>

On April 28, 2012, Ukraine's Interdepartmental Commission on International Trade approved Decision No.SP-275/2012/4423-08 under which special protective measures in the form of the following two additional duties – 6.46% and 12.95% for cars with gasoline engine volumes of 1000-1500 cubic cm and 1500–2200 cubic cm, respectively – were introduced.

Japan's claim consists in the fact that the special protection investigation was carried out in Ukraine with errors and violations of relevant provisions of the WTO. In particular, serious damage or a threat of serious damage to the industry, effective period of those measures and the period of gradual liberalization thereof, the level of concessions and other obligations were determined incorrectly. In addition to the above, proper conclusions as regards the cause-effect relation between alleged growth in imports of disputable goods and damage to the industry failed to be made. It is to be noted that Ukraine introduced special protection duties beyond the necessary level. As regards procedural requirements, Japan's claims are related to the investigation which was carried out prior to introduction of special protective measures, the investigation's findings which included the main conclusions and the obligation to notify WTO members and hold consultations with exporters from WTO countries on disputable issues.

On February 13, 2014, Japan turned to the WTO with a request to set up a panel and at the DSB meeting on March 26, 2014 it was established; the panel presented its findings to the parties to the dispute on June 26, 2015. At its meeting on July 20, 2015, the DSB accepted the findings of the panel and rules that Ukraine should abolish special protective measures in respect of cars. On October 6, 2015, Ukraine informed the DSB that Ukraine's Interdepartmental Commission on International Trade approved Decision No. SP-335/2015/4442-06 of September 10, 2015 to lift protective measures in respect of cars starting from September 30, 2015.

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<sup>1</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds468\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds468_e.htm).

Russia's participation in the dispute can be explained by Russia's substantial trade interest as the share of Russia's exports of disputable goods to Ukraine in Russia's total exports of such goods amounted to about 20% in 2013, while special protective measures are introduced against all the imports regardless of the source and, consequently, affect Russia's interests, too.<sup>1</sup> In addition to the above, the dispute in question is important in terms of better understanding of the procedure for application of protective measures in compliance with the WTO's norms and rules and the practice of participation in such disputes.

***DS471: The USA – Specific Methods and Application Thereof in Examination of Anti-dumping Cases in Which China is Involved (China)***

On December 3, 2013, China turned to the WTO with a request to hold consultations with the US as regards determination of methods used in antidumping investigations in which China is involved.

The subject matter of consultations is the methods of “nullification” used by the US in anti-dumping investigations to prevent point dumping, as well as methods used in antidumping procedures related to imports from countries regarded by the US as non-market economies. Point dumping is a kind of sale of goods at dumping prices only to individual buyers in individual geographic regions or at certain periods of time. In such cases, in antidumping investigations asymmetrical methods of comparison of a fair value and the export value of goods are normally applied for calculation of a dumping margin where the weighted average price of domestic sales is compared with each particular export deal.

In cases listed by China, the US Trade Department applied the methods of “nullification” when the weighted average price of export deals which was either higher or equal to the fair value was made equal to the zero and due to that factor such deals were disregarded in calculations of the dumping margin and the latter became overestimated. According to China, methods of “nullification” are in conflict with a number of provisions of the Antidumping Agreement as regards establishment of the fact of dumping, evidence and introduction and charging of antidumping duties.

On February 13, 2014, China turned to the WTO with a request to set up a panel and it was established on March 26, 2014, while five months later its members were selected. At present, the panel's findings are expected.

Russia filed an application for participation in the dispute as examination of complaints about application of methods of reviewing antidumping cases was of interest to it. Then, Russia filed similar claims against the EU as regards their methods of calculation of antidumping duties (DS474 and DS494). In addition to that, in 2013 the US carried out various antidumping investigations, including those in respect of Russian goods.

***DS473: The EU – Antidumping Measures in Respect of Bio-Diesel Fuel from Argentina (Argentina)***

On December 19, 2013, Argentina turned to the WTO with a request to hold consultations with the EU as regards antidumping investigations and antidumping measures introduced by the EU on the basis of the above investigations in respect of bio-diesel fuel from Argentina.<sup>2</sup>

On August 29, 2012, the EU started an antidumping investigation as regards imports of bio-diesel fuel from Argentina and Indonesia, while on May 28, 2013 relevant antidumping

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<sup>1</sup> UN COMTRADE database // <http://comtrade.un.org/>.

<sup>2</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds473\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds473_e.htm).

measures were introduced. According to the complaining country, temporary and final anti-dumping measures introduced by the EU in respect of imports of bio-diesel fuel and the investigation procedure were in conflict with some provisions of the 1994 GATT and the Anti-dumping Agreement. In particular, it concerns violations related to establishment of the fact of dumping and damage, provision of evidence and introduction and charging of antidumping duties as antidumping duties introduced by the EU exceeded the dumping margin.

On March 13, 2014, Argentina turned to the WTO with a request to set up a panel and it was established on April 25, 2014, while panel members were selected on February 15, 2015. At present, the panel's findings are expected.

Generally, Argentina's claims are similar to those of Russia as regards value adjustment methods used by the EU in carrying out of antidumping investigations and calculation of anti-dumping duties (see disputes DS474 and DS494 in which Russia acts as a complaining country against the EU on similar issues).

#### ***DS480: The EU – Antidumping Measures in Respect of Bio-Diesel Fuel from Indonesia (Indonesia)***

On June 10, 2014, Indonesia turned to the WTO with a request to hold consultations with the EU on the following issues:

- Provisions of Regulations No. 1225/2009 of the EU Council on Protection from dumping Imports from Non-EU Countries; and
- Antidumping measures introduced by the EU in May 2013 in respect of imports of bio-diesel fuel, including that from Indonesia.

Indonesia's main claims are related to the European methods, procedures and practice of cost adjustment in carrying out of antidumping investigations and calculations of antidumping duties.

On June 30, 2015, Indonesia turned to the WTO with a request to set up a panel and on August 31, 2015 it was established. At present, the dispute is at the stage of work of the panel.

Like the previous one, the dispute in question is closely related to Russia's complaints as regards cost adjustment methods used by the EU in carrying out of antidumping investigations and calculations of antidumping duties (DS474 and DS494).

#### ***DS488: The USA – US Antidumping Measures in Respect of Specific Oil and Gas Pipes and Line Pipes from Korea (the Republic of Korea)***

On December 22, 2014, the Republic of Korea turned to the WTO with a request to hold consultations with the US due to antidumping measures taken in respect of oil and gas and line pipes from Korea and the methods of investigations which preceded introduction of those measures.

The Korean side's main claims are related to the fact that antidumping investigation procedures and US antidumping measures introduced on the basis of those procedures in respect of pipes from Korea were taken in violation of the WTO's norms and rules. It concerns violations in establishment of the fact of dumping, provision of evidence, information, public notification and explanations of decisions taken and publication of trade rules. For example, for the purpose of determination of the fair value the US Trade Department used a constructed value and ignored mandatory respondents' data on actual sale prices on third countries' markets as the basis of determination of the fair value.

On February 23, 2015, the Republic of Korea turned with a request to set up a panel; at the DSB meeting on March 25, 2015 the panel was established and its members were selected on July 13, 2015. At present, the panel's findings are expected.

As the dispute in question is related to concrete issues which are of methodological importance to Russia, that is, utilization of certain methods due to application of the Antidumping Agreement (in particular, Article 2 "Establishment of the Fact of Dumping"), Russia is very interested in participation in that dispute between the US and the Republic of Korea. In addition to the above, the dispute in question is of substantial trade interest to Russia, as the share of Russia's exports of disputable goods to the US in the total volume of Russia's exports of those goods amounts to just over 35%, while in the total US imports of those goods it is equal to about 4%.<sup>1</sup>

***DS490, DS496: Indonesia – Special Protective Measures in Respect of Some Steel and Iron Products (DS490 (Chinese Taipei), DS496 (Vietnam))***

On February 12, 2015 Chinese Taipei turned to the WTO with a request to hold consultations with Indonesia as regards special protective measures introduced by Indonesia in respect of goods with customs commodity code: 7210611100 (metal-faced flat rolled iron or non-alloyed steel (min. 600 mm wide) products with galvanic or other coating with carbon content of less than 0.6% and thickness of max. 1.2 mm) and special protective investigation on which basis those measures were introduced.<sup>2</sup>

On June 1, 2015, Vietnam turned to the WTO with a request to hold consultations with Indonesia on the same issue.<sup>3</sup>

On December 19, 2012, Indonesia started an investigation into special protective measures; on the basis of the outputs of that investigation special protective measures were introduced. According to complaining countries, the investigation and special protective measures do not comply with the WTO's norms and rules. In particular, using the outdated data on imports Indonesia failed both to show properly substantial growth in imports and prove that it was a factor behind serious damage (or a threat of serious damage) to the domestic industry. In addition to the above, no explanations were given as to in what way factors which were not related to those imports could have caused serious damage to the domestic industry. Indonesia did not provide an opportunity to hold consultations on the information related to protective measures, either.

In addition to the above, complaining countries note that special protective duties introduced by Indonesia violate the total RNB as they are applied only to goods manufactured in certain countries, thus providing other countries with an advantage which is not granted immediately and unconditionally in respect of similar goods produced in all the WTO member-states. Indonesia excluded 120 developing countries, including Russia from the list of countries on whose certain types of flat rolled products special protective duties are charged.

On August 20, 2015 and September 17, 2015 Chinese Taipei and Vietnam applied, respectively, to the WTO with a request to set up a panel and it was established on September 28, 2015, however, its members are not appointed yet.

Russia is interested in the practice of dealing with disputes related to application of special protective measures and carrying out relevant investigations on which basis those measures can

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<sup>1</sup> UN COMTRADE database // <http://comtrade.un.org/>.

<sup>2</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds490\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds490_e.htm).

<sup>3</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds496\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds496_e.htm).

be introduced. It is to be noted that despite the fact that special protective measures are introduced by the country due to dramatic growth in imports regardless of the source thereof (that is, against all the countries) Indonesia exempted developing countries (including Russia) from paying special protective duties.

In addition to the above, Russia's interest in that dispute may be indirectly linked to anti-dumping measures which are in effect in Indonesia from December 27, 2013 till December 26, 2018 against Russian-made flat hot-rolled products in coils. Those antidumping duties are rather high and amount to 20% in respect of some companies.<sup>1</sup>

***DS431, DS432, DS433: China – Measures Related to Exports of Rare-Earth Metals, Wolframium and Molybdenum (the US) (DS432 (the EU), DS433(Japan))***

On March 13, 2012, the US<sup>2</sup>, the EU<sup>3</sup> and Japan<sup>4</sup> initiated in the WTO disputes against China as regards measures limiting exports of rare-earth metals, wolframium and molybdenum: export duties, export quotas, minimum export price requirements, export licensing requirements and additional requirements and procedures in respect of quantitative limitations.

China accounts for nearly one-third of the known reserves of rare-earth metals and it produces over 90% of all the rare-earth metals consumed in the world. Rare-earth metals are utilized in different high-tech industries, such as electronic engineering, instrument engineering, nuclear engineering, machinery, the chemical industry and the glass industry. The complaining countries' claims are mainly related to the fact that China's measures as regards exports of rare-earth metals, wolframium and molybdenum are not unified, impartial and justified, nor are they published properly. In addition to the above, the complaining countries believe that China failed to prove that those measures were "general exceptions" (Article XX of the 1994 GATT), nor did those measures justify China's failure to fulfil its obligations to lift export duties in accordance with the Protocol on China's accession to the WTO.

As the disputes failed to be resolved at the stage of consultations, a panel was established on September 24, 2012. On March 26, 2014, the panel presented its findings, while in April 2014 the US and China filed appeals against the panel's findings to the WTO's Appellate Body which presented its findings on August 7, 2014. At the DSB meeting on May 20, 2015, China informed the DSB that in accordance with the notification of the Ministry of Trade and Customs of China export duties and export quotas in respect of rare-earth metals, wolframium and molybdenum, as well as other limitations in respect of enterprises exporting rare-earth metals, wolframium and molybdenum recognized as incompatible with the WTO rules were abolished. So, China fulfilled in full the DSB's recommendations.

Russia benefited indirectly from participation in the dispute as by virtue of cancelation by China of export limitations on rare-earth metals, wolframium and molybdenum the Russian steel industry gained an advantage (the above oars needed for production of special hard-melting steel are exported from Russia to China and after enrichment thereof are brought back to Russia). In addition to the above, by participating in that dispute Russia learnt much about procedural issues related to settlement of trade disputes in the WTO.

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<sup>1</sup> The Review of Substantial Limitations on Russian Goods Access to Foreign Markets // [http://www.ved.gov.ru/rus\\_export/partners\\_search/torg\\_exp/](http://www.ved.gov.ru/rus_export/partners_search/torg_exp/).

<sup>2</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds431\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds431_e.htm).

<sup>3</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds432\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds432_e.htm).

<sup>4</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds433\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds433_e.htm).

***DS441, DS458, DS467: Australia – Some Measures in Respect of Trade Marks, Names of Place of Origin of Goods and Other Requirements to Simple Packing of Tobacco Products (DS441 (the Dominican Republic), (DS458 (Cuba), DS467 (Indonesia))***

On July 18, 2012, May 3, 2013 and September 20, 2013, the Dominican Republic<sup>1</sup>, Cuba<sup>2</sup> and Indonesia<sup>3</sup> turned, respectively, to the WTO with a request to hold consultations with Australia.

Australia approved a number of statutory acts which require that all the tobacco products should be sold in simple packings without any trade marks, colors, design and companies' logos. The complaining countries' main claim consists in the fact that the requirement to sell all the tobacco products in simple packings without any trade marks, colors, design and companies' logos is in conflict with intellectual property rights. In particular, Australia does not ensure effective protection from unfair competition, takes technical regulation measures beyond the level required in that situation and violates the principle of a national regime by granting domestic producers a more favorable regime than to foreign ones.

At its meeting on April 25, 2014, the DSB established a panel (including the one on disputes initiated by Ukraine (DS434) and Honduras (DS435) which Russia did not formally participate in). At present, the panels' findings are expected.

Russia's interest in participation in the dispute may be related to methodological issues of protection of intellectual property rights in accordance with the WTO's rules and norms. Many countries which joined the dispute believe that they should oppose the Australian law in question, otherwise a negative precedent may arise and other countries may follow the suit. Also, the practice of participation in disputes related to issues of technical regulation and intellectual property protection is important to Russia. At the same time, Russia may support the defendant in the dispute in question as it carries out an antismoking policy.

***DS456: India – Some Measures in Respect of Solar Cells and Solar Modules (the USA)***

On February 2013, the US turned to the WTO with a request to hold consultations with India as regards India's measures related to the share of domestic components for solar cells and solar modules.<sup>4</sup>

India demands that designers or users of solar energy plants should buy and use domestic solar cells and modules for the purpose of participation in the *National Mission of Solar Energy Development* program which major goal is to ensure India's leading position on the solar energy market by 2022. Designers and users of solar energy plants receive certain benefits (including subsidies) as they are guaranteed long-term tariffs on electric power. According to the US, the above policy is in conflict with the national regime principle as it results in a more favorable regime for import goods as compared to domestic ones. In addition to the above, those measures are a kind of prohibited subsidies in case of use of domestic, rather than import goods.

On April 14, 2014, the US turned to the WTO with a request to set up a panel and it was established on May 23, 2014; four months later panel members were selected. At present, the panel's findings are expected.

The dispute in question is of interest to Russia as the share of Russia's exports of those goods to India in Russia's total volume of exports of such goods exceeds 5%. Also, it can be stated

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<sup>1</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds441\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds441_e.htm)

<sup>2</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds458\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds458_e.htm)

<sup>3</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds467\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds467_e.htm)

<sup>4</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds456\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds456_e.htm)

that development of alternative energy sources is important to Russia. In addition to the above, the practice of participation in disputes related to provision of subsidies, including those granted due to utilization of domestic components in production is of interest to Russia.

***DS472, DS497: Brazil – Certain Measures Related to Taxes and Charges (DS472 (the EU), DS497 (Japan))***

On December 19, 2013, the EU turned to the WTO with a request to hold consultations with Brazil as regards measures related to taxes and charges in the motor sector, electronics and technology sector and free economic zones, as well as tax privileges for exporters.<sup>1</sup>

On July 2, 2015, Japan turned to the WTO with a request to hold consultations with Brazil on the same issues.<sup>2</sup>

The discriminatory tax privileges in question are related in particular to programs in the motor sector (Inovar Auto), as well as the electronics industry and related sectors (the Program for Promotion of the Semiconductor Sector (PADIS), the Program for Facilitation of Technological Development of Digital TV Equipment (PATVD) and the Program for Upgrading Availability of Digital Technologies for Broad Segments of the Population).

According to the complaining countries, such measures provide preferential treatment and support to Brazil's domestic producers and exporters which situation is in conflict with the national regime, a fundamental principle of the WTO. In particular, it happens due to a higher taxation of import goods as compared to domestic ones, tax privileges in utilization of domestic intermediary goods, as well as subsidies granted to exporters which export over 50% of their gross sales. In the course of consultations, only the issue related to tax privileges for goods manufactured in free economic zones was resolved, while other issues remained outstanding, so a panel was established in December 2014.

According to the 2013 data, the shares of both Russian exports to Brazil and imports from Brazil of respective groups of commodities amounted to less than 0.5%<sup>3</sup> due to which factor participation in the dispute was interesting to Russia in terms of application of the practice of taxes and duties and resolution of such disputes.

***DS487: The USA – Tax Privileges under Some Conditions for Large Civil Airplanes (the EU)***

On December 19, 2014, the EU turned to the WTO with a request to hold consultations with the US as regards tax privileges introduced by the State of Washington in respect of development, production and sales of large civil airplanes under certain conditions.<sup>4</sup>

In November 2013, the US largely expanded tax privileges to the aircraft industry to stimulate production by the Boeing Company of new models of large civil aircraft 777X in the State of Washington and granted additional subsidies worth billion US dollars to the Boeing Company, including those for utilization of components manufactured in the State of Washington. The EU maintains that the above measures are a type of subsidies prohibited in the WTO.

On February 12, 2015, the EU turned to the DSB with a request to set up a panel and it was established on February 23, 2015, while two months later panel members were selected.

Russia has a substantial trade interest in that dispute. According to the 2013 data, position 8802 imports from the US to Russia amounted to 38% of the entire Russian imports of the above position and 45% of the entire US exports of those goods. However, in 2014 the trade

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<sup>1</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds472\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds472_e.htm).

<sup>2</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds497\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds497_e.htm).

<sup>3</sup> UN COMTRADE database // <http://comtrade.un.org/>.

<sup>4</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds487\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds487_e.htm).



between Russia and the US in disputable goods decreased dramatically, while the share of imports from the US fell to 6% and 8% in the total Russian imports of those goods and the total US exports of those goods, respectively. The share of exports of disputable goods from Russia to the US in the total Russian export of those goods fell from 3% in 2013 to 0.5% in 2014.<sup>1</sup> Furthermore, the dispute in question is practice for Russia to participate in WTO disputes related to tax privileges which result in specific subsidies.

***DS489: China – Measures Related to Demo Base Programs and Public Service Platforms (the US)***

On February 11, 2015, the US turned to the WTO with a request to hold consultations with China on determination of measures granting subsidies to enterprises provided that they took part in export activities of some industrial sectors of China.<sup>2</sup>

According to the US, by means of the *Transformation of the International Trade and Modernization of Demo Bases* program (hereinafter, demo bases) and the *Public Service Platform* China provides export subsidies. Demo bases are industrial clusters of enterprises in China's some economic sectors, including the textile industry, agriculture, medical goods production, the light industry, chemical engineering, as well as metalworking and the building materials industry. Public service platforms are service providers designated in China for rendering services to enterprises in a demo base. China singles out an industrial cluster of enterprises in a separate industry as a demo base and then grants export subsidies to the demo base enterprises. The above subsidies include provision of services of a public service platform free of charge or at a discount or in the form of monetary grants. As by means of a demo base program and public service platform subsidies are granted to Chinese-based enterprises engaging in export activities, the US believes the above measures are in conflict with Article 3.1(a) and Article 3.2 (Ban) of the Agreement on Subsidies and Compensation Measures.

For Russia, China is an important producer, importer and exporter of goods which manufacturers allegedly receive an advantage from measures discussed at the consultations. So, the result of resolution of the dispute may have an impact on manufacturers, importers, exporters and consumers in Russia. With regard to the above, for Russia the most sensitive industries can be the following: the textile industry, agriculture, medical goods production, the light industry, special chemical engineering, metalworking and the building materials industry.

***DS492: The EU – Measures Related to Tariff Concessions in Respect of Certain Poultry Meat Products (China)***

On April 8, 2015, China turned to the WTO with a request to hold consultations with the EU as regards changes in the EU's tariff concessions in respect of some poultry meat products.<sup>3</sup>

The measures introduced as result of the EU's two requests due to changes in the EU's tariff concessions in respect of certain poultry meat products under Article XXVIII (Changes in the Lists) of the 1994 GATT in 2007 and 2012 and the EU's refusal to change tariff quotas at China's request are controversial. China's main claims are related to the fact that the EU carried out negotiations on tariff concession changes with Thailand and Brazil which had substantial trade interest in those goods, however, China was denied such negotiations despite the fact that it had substantial trade interest, too. It is to be noted that in both cases tariff quotas were granted

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<sup>1</sup> UN COMTRADE database // <http://comtrade.un.org/>.

<sup>2</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds489\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds489_e.htm).

<sup>3</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds492\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds492_e.htm).

in full to Brazil and/or Thailand, while the related rates of the customs tariff beyond the quota happened to be much higher than the related rates before changes in concessions were made.

As consultations between China and the EU failed to resolve the dispute, on June 8, 2015 China turned to the DSB with a request to set up a panel and it was established on July 20, 2015. At present, panel members are being selected.

The dispute in question is interesting to Russia in terms of procedures as the role of a third party in the dispute is for Russia a kind of practice of participating in disputes on changes in the lists of related tariffs and helps Russia to have a better understanding of such changes, negotiation procedures and other. In addition to the above, the dispute in question is of practical interest to Russia as the EU remains Russia's main trade partner though not in exports of poultry meat products from Russia to the EU. Also, the above regulations provide for a quota on other countries' supplies (including Russia), however, its volumes were insignificant and amounted to nearly 30 tons of poultry meat and processed poultry meat products.<sup>1</sup>

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So, it can be stated that Russia actively participates in settlement of trade disputes in the WTO, including those on mutual claims which arose prior to Russia's accession to the WTO. In most cases, Russia participates as a complaining country and defendant in WTO disputes with the EU and Ukraine. As a complaining country, Russia is primarily interested in issues of antidumping investigations and antidumping measures, particularly, in the iron and steel industry and the chemical industry. In the WTO, Russia is mainly complained about by other countries as regards the following issues: technical barriers in trade, sanitary and phytosanitary norms, antidumping measures and investment measures which affect trade and tariffs.

As a third country, Russia normally participates in disputes concerning products of the iron and steel industry, the agriculture, the motor industry and the aircraft industry. Russia's participation as a third country is normally related not only to a substantial trade interest, but also the practice of participating in disputes. Also, the issues of application of the WTO's norms and rules are of interest to Russia.

For Russia, it is highly important to have the right position and tactical strategy of participating in the WTO disputes to develop mutual trade with other member-states and defend its interests on the basis of the WTO norms and rules.

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<sup>1</sup> The Review of Substantial Limitations on Russian Goods Access to Foreign Markets // [http://www.ved.gov.ru/rus\\_export/partners\\_search/torg\\_exp/](http://www.ved.gov.ru/rus_export/partners_search/torg_exp/).