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R95 **Russian Economy in 2018. Trends and Outlooks. (Issue 40)** / [V. Mau at al; ed. Editors – Alexei Kudrin, doctor of sciences (economics), Alexander Radygin, doctor of sciences (economics), doctor of sciences Sergey Sinelnikov-Murylev, doctor of sciences (economics)]; Moscow: Gaidar Institute Publishers 2019. – 616 pp. – ISBN 978-5-93255-556-9

The review “Russian Economy. Trends and Outlooks” has been published by the Gaidar Institute since 1991. This is the 40th issue. This publication provides a detailed analysis of main trends in Russian economy, global trends in social and economic development. The paper contains 6 big sections that highlight different aspects of Russia's economic development, which allow to monitor all angles of ongoing events over a prolonged period: the socio-political issues and challenges; the monetary and budget spheres; financial markets and institutions; the real sector; social sphere; institutional changes. The paper employs a huge mass of statistical data that forms the basis of original computation and numerous charts confirming the conclusions.

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The use by Russia of the WTO dispute settlement mechanisms¹

4.7.1. Trade disputes handled by the WTO that Russia has been a party to (complainant or respondent)

The Russian Federation acceded to the World Trade Organization (WTO), and so became subject to its international trade dispute settlement procedures, on August 22, 2012. The mechanism was adopted by the WTO under the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU)². Thus, from August 2012 onwards, Russia has enjoyed the right to defend its trade interests by applying this

¹ This section was written by: M. Baeva, RANEPА, RFTA of the RF Ministry of Economic Development; A. Knobel, Gaidar Institute, RANEPА, RFTA of the RF Ministry of Economic Development.

² URL: https://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm

particular instrument. The dispute settlement procedure applied by the WTO consists of five main successive stages:

1) *bilateral consultations* (within 60 days from the moment of filing a request for consultations);

2) *establishment of a panel* at the request of any of the parties to a dispute and appointment of panel experts to examine the facts of the case (within 45 days of the request to establish a panel);

3) *panel examination* (within 6–9 months after its establishment), presentation of its report to the Dispute Settlement Body (DSB), and issuance of recommendations by the DSB (approximately 60 days from the moment of report presentation by the panel);

4) *case examination by the Appellate Body (AB)*, if one of the parties chooses to appeal against the panel report (60–90 days from the moment of filing an appeal), adoption of the report by the Appellate Body of the DSB, and issuance by the DSB of its recommendation to the parties (30 days from the moment of presentation of the Appellate Body’s report);

5) *control, by the DSB*, of the implementation of its recommendations (not later than 15–18 months after the adoption by the DSB of the a report presented by a panel or the AB).

As of the year-end of 2018, Russia had been involved in a total of 81 disputes handled by the WTO: in 7 disputes as a complainant, in 9 disputes as a respondent, and in 65 disputes as a third party.

In 2018, Russia filed with the DSB a complaint against the USA introducing measures concerning steel and aluminum products (DS554). Another complaint was filed in 2018 against Russia by the USA in relation to raised tariffs on some imported goods manufactured in the USA (DS566).

In 2018, one dispute that Russia was a party to (respondent) was settled (DS479) (*Table 40*).

In the role of a third party, in 2018 Russia participated in 25 disputes. Some of the disputes where Russia acted as a third party have already been settled, and in several cases Russia derived indirect benefits from the WTO dispute settlement mechanism.

Table 40

**Trade disputes brought to the WTO that Russia has been a party
to (complainant or respondent)**

Dispute	Claim	Current stage (as of year end 2018)
As complainant		
DS474: EU – Cost Adjustment Methodologies and Certain Anti-Dumping Measures on Imports from Russia (23.12.2013 ¹)	The EU used ‘cost adjustment’ methodologies in its anti-dumping investigations and reviews for calculating dumping margins, and while doing so, rejected the cost and price information of Russian producers and exporters. The EU investigated the terms for anti-dumping measures without considering the effect of such rejection of cost and price data on the determination of dumping margins and injury caused by dumped imports.	Appointment of panel experts (22.07.2014)

¹ The date in brackets is the date on which the Request for Consultations was received.

Dispute	Claim	Current stage (as of year end 2018)
DS476: EU – Certain Measures Relating to the Energy Sector (30.04.2014)	EU Third Energy Package: producers of natural gas are not allowed to own trunk lines situated in EU territory. The operators controlled by foreign persons must undergo special certification procedure.	Examination by Appellate Body (AB) (21.09.2018)
DS493: Ukraine – Anti-Dumping Measures on Ammonium Nitrate (07.05.2015)	While conducting anti-dumping investigations on imports of ammonium nitrate originating in Russia, Ukraine rejected the information of producers on electric energy prices in Russia, using instead price information from third countries (energy cost adjustments).	Examination by AB (23.08.2018)
DS494: EU – Cost Adjustment Methodologies and Certain Anti-dumping Measures on Imports from Russia (07.05.2015)	While conducting anti-dumping investigations on imports of certain welded and seamless tubes and pipes and ammonium nitrate originating in Russia for calculation of dumping margins, the EU rejects the cost and price information of producers and exporters, using instead price information from third countries (energy cost adjustments).	Panel examination (17.12.2018)
DS521: EU – Anti-Dumping Measures on Certain Cold-Rolled Flat Steel Products from Russia (27.01.2017)	While conducting anti-dumping investigations, the EU rejects the cost and price information of Russian producers, relying instead on unsubstantiated data and incorrect calculations.	Consultations (27.01.2017)
DS525: Ukraine – Measures Relating to Trade in Goods and Services (19.05.2017)	Comprehensive request for consultations with respect to multiple restrictions, prohibitions, requirements and procedures adopted and maintained by Ukraine in respect of trade in goods and services originating in Russia.	Consultations (19.05.2017)
DS554: USA – Certain Measures on Steel and Aluminum Products (29.06.2018)	Russia claims that the USA introduced these measures in spring 2018 in violation of provisions of the GATT 1994 and the Agreement on Safeguards. In particular, the USA acted contrary to the WTO's MFN principle by granting to some countries certain advantages and treatments that were denied other countries, introduced restrictions on imports other than duties, taxes or other charges made effective through quotas, failed to properly substantiate its emergency action on imports of particular products, failed to give notice in writing to the exporters of relevant products, and failed to comply with any of the existing notification and consultation obligations.	Appointment of panel experts (21.11.2018)
As respondent		
DS462: Russia – Recycling Fee on Motor Vehicles (EU, 09.07.2013)	Russia imposed a charge ('recycling fee') on imported motor vehicles, while exempting domestic vehicles from that payment, under certain conditions. The 'recycling fee' steeply increases for certain categories of vehicles (new or second-hand ones).	Appointment of panel experts (25.11.2013)
DS463: Russia – Recycling Fee on Motor Vehicles (Japan, 24.07.2013)	Russia imposed additional charge ('recycling fee') on imported motor vehicles, while in actual practice exempting domestic vehicles from that payment, under certain conditions.	Consultations (24.07.2013)
DS475: Russia – Measures on the Importation of Live Pigs, Pork and Other Pig Products from the EU (EU, 08.04.2014)	The ban on imports of live pigs, pork and other pig products from the EU is a disproportional measure, introduced following several cases of ASF ¹ in wild boar near the border with Belarus, which were promptly controlled. The EU disputes the way Russia treats the regionalization measures against the spread of ASF.	Request for measures, arbitration (03.01.2018). Control of the respondent's compliance with the DSB's recommendations (21.11.2018)
DS479: Russia – Anti-Dumping Duties on Light Commercial Vehicles from Germany and Italy (EU, 21.05.2014)	While conducting anti-dumping investigations on imports and calculating dumping margins on light commercial vehicles, Russia failed to comply with the WTO rules for the determination of the existence of dumping, failed to disclose information relevant to injury determination, incorrectly defined the domestic industry, and failed to provide all relevant information and explanations.	Respondent adopted the DSB's recommendations to bring measures in conformity (20.06.2018)
DS485: Russia – Tariff Treatment of Certain Agricultural and Manufacturing Products - (EU, 31.10.2014)	For certain goods, including paper and paperboard, Russia applied ad valorem duty rates of 15 or 10 percent, thus exceeding the ad valorem bound rate of 5 percent. In cases where the customs value is below a certain level, duties were levied in excess of the bound rates.	Respondent complied with the DSB's recommendations (08.06.2017)
DS499: Russia – Measures Affecting the Importation of Railway Equipment and Parts Thereof (Ukraine, 21.10.2015)	Russia suspended the conformity assessment certificates issued to producers of railway rolling stock, railroad switches, other railroad equipment, and parts thereof prior to entry into force of the new Technical Regulations, and rejected new applications for certificates pursuant to the new procedures.	Examination by the AB (27.08.2018)
DS512: Russia – Measures Concerning Traffic in Transit (Ukraine, 14.09.2016)	Russia adopted restrictions on international automobile and railway traffic in transit of Ukrainian exports to the Republic of Kazakhstan and the Kyrgyz Republic: the international road and railway transit of goods	Panel examination (06.06.2017)

¹ ASF is African swine fever.

Dispute	Claim	Current stage (as of year end 2018)
	from Ukraine through the territory of Russia can be carried out only from the territory of the Republic of Belarus, on certain specific conditions. Additional measures include ban of transit of goods affected by the tariffs rates higher than zero, and ban of transit of goods which are under embargo.	
DS532: Russia – Measures Concerning the Importation and Transit of Certain Ukrainian Products (Ukraine, 13.10.2017)	Russia introduced measures affecting traffic in transit of Ukrainian juice products, beer, beer-based beverages and other alcoholic beverages, confectionery products, wallpaper and similar wall coverings to third countries. Exports of these products from Ukraine to Russia were significantly restricted, and some products were banned.	Consultations (13.10.2017)
DS566: Russia – Additional Duties on Certain Products from the United States (USA, 27.08.2017)	The USA claimed that these measures are inconsistent with Articles I:1 (General Most-Favored-Nation Treatment), II:1(a), and II:1(b) (Schedules of Concessions) of the GATT 1994, because Russia failed to extend to products of the USA the treatment granted by Russia with respect to customs duties and charges of any kind imposed on or in connection with the importation of products originating in the territory of other WTO members, and accorded less favorable treatment to products originating in the USA than that provided for in Russia's schedule of concessions. In accordance with RF Government Decree No. 788 dated July 6, 2018, from August 2018 Russia raised the rates of import customs duties on forklift trucks and other trucks equipped with lifting or loading-unloading devices, graders, tamping machines, tools for cutting optical fiber, etc. The new rates amount to 25, 30 and 40 percent of customs value, depending on product type.	Appointment of panel experts (18.12.2018)

Source: Own compilation based on data published on the WTO's official website: URL: https://www.wto.org/english/tratop_e/dispu_e/dispu_by_country_e.htm

4.7.2. The progress, in 2018, of the trade disputes handled by the WTO where Russia has acted as complainant

DS476: EU – Certain Measures Relating to the Energy Sector (30.04.2014)

In late April 2014, Russia filed a request for consultations with the EU concerning the so-called EU Third Energy Package, whereby the trunk lines situated in EU territory could not be owned by producers of natural gas (the upstream pipeline networks measure). In addition, the pipeline operators controlled by foreign persons were asked to undergo a special certification procedure and to comply with some additional requirements. Russia claimed that this and some other provisions of the EU Third Energy Package were inconsistent with the obligations assumed under a covered WTO agreement with respect to basic principles of non-discrimination and access to markets.

From March 7, 2016, a panel examination started, and the panel presented its report by August 10, 2018. The panel upheld 3 out of Russia's 6 claims. The panel recognized the certification measure, as well as the capacity cap for the operation of the OPAL gas pipeline (connected to the Nord Stream) imposed by the European Commission (EC) to be inconsistent and discriminatory (however, the latter issue had already been settled between the European Commission and Gazprom). Besides, the panel ruled that the exemptions granted to infrastructure 'projects of common interest' were inconsistent with the WTO norms and rules if these were applied to natural gas supplies from countries other than Russia. The core principle of the EU Third Energy Package (the upstream pipeline networks measure), preferential treatment of liquefied natural gas

(LNG) and its suppliers, and exemptions for field pipelines, disputed by Russia in the framework of the EU Gas Directive, were left unchanged.

On September 21, 2018, the EU appealed against the panel report, and on September 26, 2018, Russia followed suit.

DS493: Ukraine – Anti-Dumping Measures on Ammonium Nitrate (Russia)

On May 7, 2015, Russia filed with the WTO a request for consultations with Ukraine in respect of the Ukrainian anti-dumping measures on ammonium nitrate imports from Russia¹.

Russia essentially complained that, while conducting anti-dumping investigations on imports of ammonium nitrate originating in Russia, Ukraine rejected the information of producers on electric energy prices in Russia, using instead price information from third countries (i.e., resorted to ‘energy cost adjustments’). Besides, Russia believed that Ukraine had also violated some provisions of the Anti-Dumping Agreement.

Since the dispute could not be settled at the stage of consultations, on February 29, 2016 Russia requested the establishment of a panel, on April 22, 2016 a panel was established, and on February 2, 2017, the panel experts were appointed.

The panel presented its report on July 20, 2018. The panel recognized that Ukraine originally imposed anti-dumping duties on imports of ammonium nitrate from Russia following an anti-dumping investigation that was indeed inconsistent with the norms and rules established by the WTO. Russia essentially claimed that, in determining the cost of natural gas actually borne by the Russian producers and exporters for production of ammonium nitrate, the Ukrainian authorities failed to calculate costs on the basis of records kept by the Russian producers and exporters, and replaced these data with data on gas prices outside Russia that did not reflect the cost of production in the country of origin (so-called ‘energy cost adjustments’). Russia requested the consultations on May 7, 2015, and a panel was established on February 2, 2017. The fact that the panel sided with Russia in that dispute gave rise to an important precedent for similar disputes between Russia and the EU in respect of ‘energy cost adjustments’ (DS474, DS494, and DS521), the panels for which have not yet entered the case examination stage. Thus, the dispute in respect of imports of ammonium nitrate initiated by Russia against Ukraine was the first dispute subject to a panel ruling. On August 23, 2018, Ukraine filed an appeal against the panel report.

DS494: EU – Cost Adjustment Methodologies and Certain Anti-Dumping Measures on Imports from Russia (Russia)

On May 7, 2015, Russia filed another complaint against the EU with respect to the ‘cost adjustment’ administrative procedures, methodologies or practices of the EU for the calculation of the dumping margin in anti-dumping investigations and reviews of

¹ URL: https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds493_e.htm

anti-dumping measures in accordance with Council Regulation (EC) No 1225/2009 of November 30, 2009 on protection against dumped imports from countries not members of the European Community¹.

This request filed by Russia also concerns the continued use of these anti-dumping measures by the EU – among other things, in relation to imports of ammonium nitrate originating in the Russian Federation, including definitive anti-dumping duties imposed beyond the established five year period as a result of an expiry review of those anti-dumping measures. Because the claims are essentially similar, Russia's complaint also referred to the definitive anti-dumping measures imposed on imports of certain welded tubes and pipes of iron or non-alloy steel originating in the Russian Federation, including those extended beyond the five year period as a result of the initiation of an expiry review by the EU.

Russia believes that in the course of anti-dumping investigation by the EU with respect to imports of ammonium nitrate, as well as welded tubes and pipes, the EU failed to take all the necessary measures to ensure conformity of its laws, regulations and administrative procedures with the provisions of the WTO Agreement, because the costs of production of these products were calculated not on the basis of domestic energy inputs in the territory of Russia, but on the basis of energy prices in third countries, that is, the EU resorted to 'cost adjustment' practices, thus causing significant injury to the suppliers from Russia. As estimated by Russian experts, the measures introduced by the EU against Russia appeared to effectively nullify Russia's exports of welded tubes and pipes to the EU (having been in effect since 2008), and Russia's exports of ammonium nitrate to the EU in 2014 shrank approximately 1.5 times relative to 2012 (in 2012, their value volume amounted to approximately USD 220 million)². According to data for 2014, about 30% of Russia's exports of the products at issue go to the EU, thus taking up nearly 11% of EU imports of ammonium nitrate (FEACN 310230) and welded tubes and pipes (FEACN 7305)³.

On November 7, 2016, Russia filed with the DSB a request for the establishment of a panel, on December 16, 2016 a panel was established, and 2 years later (on December 17, 2018), outside of the recommended timeframe, the panel experts were selected, with due regard to the opinions of the parties.

DS554: USA – Certain Measures on Steel and Aluminum Products (Russia)

On June 29, 2018, Russia filed with the DSB a request for consultations with the USA concerning the protective measures on steel and aluminum products imposed in spring

¹ URL: https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds494_e.htm

² Russia filed complaints with the WTO against Ukraine and the EU URL: <http://www.wto.ru/2015/05/07/>

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

2018. Russia claimed that the measures introduced by the USA were inconsistent with the GATT 1994 and the Agreement on Safeguards. In particular, the USA acted contrary to the WTO's principle of the MFN, because some countries were granted advantages and exemptions that were not extended to other countries; the USA introduced restrictions other than duties, taxes or other charges, made effective through quotas, on the importation of products, failed to produce reasoned conclusions and properly substantiate safeguard measures, failed to give notice in writing to the WTO in advance, and failed to afford the WTO and WTO members having a substantial interest as exporters in the products concerned an opportunity to consult with it in respect of the proposed action.

As far as the inconsistencies with the Agreement on Safeguards are concerned, the USA applied safeguard measures to imported products irrespective of their source, without first having determined that such products were being imported into its territory in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products, without first properly conducting an investigation and publishing a report that sets forth their findings and reasoned conclusions on all pertinent issues of fact and law, and it had not been properly determined that there was serious injury, or threat thereof, to a domestic industry; the USA failed to properly evaluate all relevant factors having a bearing on the situation of the domestic industry, and to demonstrate the existence of a causal link between increased imports and serious injury or the threat thereof; safeguard measures were applied beyond the extent necessary to prevent or remedy serious injury and to facilitate adjustment, the USA was applying safeguard measures without making provision for their application only for the period necessary to prevent or remedy serious injury and to facilitate adjustment, without limitation to four years, and without making provision for progressive liberalization at regular intervals, and did not endeavor to maintain a substantially equivalent level of concessions and other obligations to that existing under the GATT 1994 between them and the exporting members¹. In 2017, the USA received 13% of Russia's steel and aluminum exports (FEACN 72, 73 и 76), while Russia's share in US imports amounted to 32%.² Similar disputes with the USA were initiated by China (DS544), India (DS547), the EU (DS548), Canada (DS550), Mexico (DS551), Norway (DS552), and Switzerland (DS556), and Russia participated in many of these as a third party, of which more will be said later.

On October 18, 2018, Russia filed with the DSB a request for the establishment of a panel, and on November 21 a panel was established. As of year-end 2018, the dispute undergoes the stage of panel expert selection.

¹ URL: <http://www.vavt.ru/materials/site/7F7935A6>

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

4.7.3. The progress, in 2018, of the trade disputes handled by the WTO where Russia has acted as respondent

DS475: Russia – Measures on the Importation of Live Pigs, Pork and Other Pig Products from the EU (EU)

In early April 2014, the EU filed with the WTO a request for consultations with Russia concerning the ban on importation to Russia of pork and live pigs from all the EU member states because of concerns related to some cases of African swine fever (ASF), and a temporary restriction on imports of all types of pork products from Poland and Lithuania.

On June 27, 2014, the EU filed with the DSB a request for the establishment of a panel, and it was established a month later. On August 19, 2016, the panel presented its report, where it was stated that the measures at issue were not in line with EU law and the international standards laid down by the World Organization for Animal Health (OIE), and were introduced contrary to the standards set forth by the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement). Russia failed to properly base its sanitary measure on a risk assessment and did not take into account available scientific evidence underlying the EU regionalization measures. The regionalization principle allows trade with certain non-restricted areas that are recognized to be unaffected by pests of disease, in cases when the other territory of a country have been affected. Instead, Russia introduced a EU-wide ban on imports of all pork products and live pigs. The panel pointed out that the measures were discriminatory, and resulted in a disguised restriction on international trade.

On September 23, 2016, Russia appealed to the Appellate Body certain issues of law covered in the panel report and certain legal interpretations developed by the panel. On September 28, 2016, the EU likewise filed an appeal. On February 23, 2017, the Appellate Body (AB) presented its report, which was adopted by the DSB as of March 21, 2017. The AB upheld the panel's conclusion that the Russia's EU-wide ban on imports of all products of the pork industry was indeed a restriction on trade, while the conditions for Russia's accession to the WTO did not imply any limitations to the ability of the Appellate Body to review the claims presented by the EU with respect to the ban on importation. According to the RF Ministry of Economic Development, this conclusion is inconsistent with Russia's previously explained standpoint, and so gives rise to some issues that need to be settled in the framework of a bilateral discussion with the EU. In particular, from the conclusion presented by the panel it follows that the documentation for importation of pork products used by Russia and previously agreed upon with the EU, was inconsistent with the WTO Agreement, and so was not mandatory. By doing so, the AB effectively disavowed Russia's consent, consolidated by the Protocol of Russia's accession to the WTO, to the conditions of pork importation agreement that have already been used as a framework for pork supplied to the value of hundreds of millions euro, and suggested that the EU should reach a new agreement with the RF. The AB adopted a more general ruling whereby Russia was not only

allowed, but was obliged to unilaterally introduce alterations to bilateral veterinary certificates that were already previously agreed with other WTO members¹.

On the whole, the AB upheld the panel ruling, the DSB issued a recommendation that Russia should bring its administrative measures in conformity with the norms and rules of the WTO. On April 19, 2017, Russia announced its intention to implement the DSB's recommendations, within a reasonable period of time. On June 2, 2017, Russia and the EU agreed that the reasonable period of time for implementing the recommendations would amount to 8 months and 15 days from the moment of adopting the AB's report. That period expired on December 6, 2017, and by that time Russia had implemented the demands set forth by the DSB: the EU-wide ban on imports of pork, live pigs and pork product, that had been introduced in order to control the spread of ASF, was lifted, except with respect to certain administrative territories entered on a special list, and the agreed EU-Russia bilateral veterinary certificate forms were approved. In this connection, the RF Ministry of Economic Development emphasized that the food embargo introduced as a retaliatory measure in response to the EU economic sanctions was still in effect². However, that measure was not among the claims covered by the dispute.

According to the EU, Russia failed to fully implement all the recommendations set forth by the DSB, and so on December 9, 2017 the EU requested that retaliatory measures be introduced in the form of suspension of mutual concessions and obligations to the value of € 1.39 billion per annum (total value volume of exports in 2013), with annual increase of 15%. Russia disagreed, and a panel meeting was scheduled for January 3, 2018. For its part, Russia on January 25, 2018 filed with the WTO a request for consultations with the EU with respect to control of its implementation of the DSB's recommendations. Thus, from November 21, 2018, the same panel that had originally been established to settle this dispute has been checking the progress of implementation by Russia of the DSB's recommendations.

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

On May 21, 2014 the EU filed with the WTO a complaint against Russia with respect to anti-dumping duties imposed on light commercial vehicles (LCV) imported from Germany and Italy. The panel examined the case on December 18, 2014 and January 27, 2017, and then presented its report. Within a month, both Russia and the EU appealed against the panel ruling. On March 22, 2018, the Appellate Body presented its report concerning this dispute. The Appellate Body upheld the core conclusions of the panel whereby it was recognized that Russia had failed to conduct an objective examination, based on positive evidence, and so incorrectly calculated the anti-dumping duties on imports of light commercial vehicles from Germany and Italy. The AB upheld the panel's conclusion that the EEC, in the course of its investigation, incorrectly defined

¹ URL: http://pticainfo.ru/news/?ELEMENT_ID=53214

² URL: <https://www.rbc.ru/rbcfreenews/5a27ccc99a79474b20fce4f8>

the domestic industry by taking into consideration only one producer (the applicant) and overlooking GAZ Group. The AB agreed with the panel in that the EEC had failed to properly consider in the course of its investigation the effects of the 2009 financial crisis when wrongly taking the 2009 domestic industry's profit rate as the basis to establish the domestic target price without any adjustments. The AB upheld the panel ruling and established that the EEC's acts ran contrary to Articles 3.1 and 3.2 (injury determination) of the Anti-Dumping Agreement because it had failed to properly examine whether the market would accept any additional domestic price increases. The EU failed to prove the fact of the EEC's acts being inconsistent with Articles 3.1 and 3.4 (injury determination) of the Anti-Dumping Agreement, as it was not required to examine the information about stocks. Because the body conducting an investigation has the right but is not obligated to give consideration to such data, the AB upheld this conclusion presented by the panel. The AB ruled that the EEC acted inconsistently with Article 6.9 (essential facts under consideration) of the Anti-Dumping Agreement because it failed to disclose the essential facts at issue to all related parties. On April 9, 2018, the Dispute Settlement Body of the WTO adopted the reports presented by the panel and the AB and issued recommendations to the effect that Russia should bring its administrative measures in conformity with the norms and rules of the WTO. Due to the lengthy dispute settlement procedure practiced by the WTO coupled with an absence of any requirements that the measures at issue should be suspended over the dispute settlement period, the anti-dumping measures remained in effect throughout the announced 5-year period¹.

The aggregate imports of disputed goods from Germany and Italy to Russia in 2017 lost 83% in terms of value volume relative to 2012, and the corresponding imports from Turkey lost 51%. The share of light commercial vehicles from Germany and Italy in Russia's imports of this type of goods declined from 46% in 2012 to 29% in 2017².

DS499: Russia – Measures Affecting the Importation of Railway Equipment and Parts Thereof (Ukraine)

On October 21, 2015, Ukraine filed with the WTO a request for consultations with Russia concerning measures whereby restrictions were imposed on imports of railway equipment and parts thereof (in particular, railway rolling stock and railway switches)³.

Ukraine claimed that Russia was suspending the conformity assessment certificates issued to producers of railway transport infrastructure products and railway rolling stock prior to entry into force of the new Technical Regulations, and was rejecting applications for new certificates conforming with the newly introduced procedures. The claim presented by Ukraine is in the main that Russia's measures at issue accord less favorable treatment to like products originating in Ukraine than that accorded to like products of national origin and to like products originating in any other WTO member. These

¹ URL: <http://www.vavt.ru/materials/site/70BCB1DC>

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

³ URL: https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds499_e.htm

measures created unnecessary obstacles to international trade, and Russia did not, upon request from the Ukrainian authorities, explain the justification for adoption of the measures at issue. Ukraine believed that Russian authorities violated certain aspects of the conformity assessment procedures. Besides, the information requirements were not limited to what was necessary to assess conformity and determine the fees, and the fees were not equitable in relation to any fees chargeable for assessing the conformity of like products.

On November 10, 2016, Ukraine requested the establishment of a panel, which set out to examine the case from March 2, 2017. On July 30, 2018, the panel presented its report concerning the dispute. The panel denied Ukraine's claim that Russia's measures were of a 'systematic' nature. At the same time, the panel agreed that the legitimate regulatory distinction test is *de facto* discriminatory with respect to Ukrainian railway products, that the conformity assessment procedures were applied more strictly than necessary, and the assessment results were not properly presented to applicants¹. In late August 2018, Ukraine appealed against the panel ruling.

DS566: Russia – Additional Duties on Certain Products from the United States (USA)

On August 27, 2018, the USA filed with the DSB a request for consultations with Russia concerning the introduction of import tariffs on some types of products manufactured in the USA. The USA argued that these measures were inconsistent with Articles I:1 (General Most-Favored-Nation Treatment), II:1(a), and II:1(b) (Schedules of Concessions) of the GATT 1994, because Russia did not impose the additional duties measure on like products originating in the territory of any other WTO member, and also appeared to be applying rates of duty to US imports greater than the rates of duty set out in Russia's schedule of concession. In accordance with RF Government Decree No. 788 dated July 6, 2018, from August 2018 onwards Russia raised the rates of import customs duties on forklift trucks and other trucks equipped with lifting or loading-unloading devices, graders, tamping machines, tools for cutting optical fiber, etc. The new customs duty rates amount to 25, 30 and 40 percent of customs value, depending on product type. According to the RF Ministry of Economic Development, Russia was acting in the framework of the Agreement on Safeguards, having introduced those measures by way of compensating for the injury resulting from the US safeguard measures against the importation of steel and aluminum products from other countries, Russia including. However, the USA noted that these were not safeguard measures, and so did not fall within the scope of the Agreement on Safeguards. Similar requests were filed by the USA against Canada (DS557), China (DS558), the EU (DS559), Mexico (DS560), and Turkey (DS561), and Russia joined those disputes as a third party. The said countries raised their customs tariffs on certain products in response to the safeguard measures introduced by the USA against steel and aluminum imports. Previously, these measures imposed by the USA had already been disputed with the

¹ URL: <http://www.vavt.ru/materials/site/BE758A6F>

WTO by some countries, Russia including (DS554) (see the section on those disputes where Russia had acted as a complainant)¹.

On November 22, 2018, the USA filed a request for the establishment of a panel, which was established on December 18, 2018. As of late 2018, the dispute undergoes the stage of panel expert appointment.

4.7.4. The progress, in 2018, of the trade disputes handled by the WTO where Russia has acted as third party

From the moment of its accession to the WTO, Russia has participated in 64 disputes as a third party. About 28% of these disputes have already been settled; in 36% of disputes, the main dispute settlement procedures have been completed; and in 5% of disputes, the DSB ruled in favor of the respondent (DS458, DS467, DS487). It is noteworthy that in two of those disputes where the ruling favored the respondent (the disputes with Australia concerning packaging of tobacco products and packaging), Russia sided with the respondents. Overall, Russia participated in the trade disputes initiated by the USA (13 out of 64 disputes), China and Japan (7 disputes), the EU (6 disputes), Canada and the Republic of Korea (4 disputes); and in the disputes against the USA (20 disputes), China (11 disputes), the EU (8 disputes), Australia and Canada (4 disputes each). Russia's role as a third party is usually motivated not only by a significant trade-related interest, but also – and mostly – by practical considerations related to certain specific issues and by systemic considerations that have to do with the implementation of certain norms and rules of the WTO. It sometimes so happens that formally different disputes that have been initiated by different complainants focus on one and the same measure imposed by the respondent (later, we are going to discuss some 'unique cases' among the 64 disputes where Russia acted as a third party (a total of 47 cases)). As far as the products at issue are concerned, Russia has joined, most frequently, the disputes that have to do with measures addressing metallurgy (11 out of 47 'unique cases'), agriculture and the food industry (10 cases), renewable energy sources (4 cases), the automotive and aircraft industries (2 cases each), the lumber industry and wood products (3 cases), and the chemical industry (2 cases). The disputes handled by the WTO where the Russian Federation has acted as a third party can be provisionally grouped around several themes (see *Table 41*).

Table 41

WTO disputes where Russia has been a third party

Theme	Disputes
1	2
1. Ban or restrictions on imports (environmental protection or other reasons).	DS400, DS401, DS469, DS484, DS495, DS524, DS531, DS537.
2. Safeguard investigation and measures (antidumping or countervailing measures and safeguards).	DS414, DS437, DS449, DS454, DS468, DS471, DS473, DS480, DS488, DS490, DS496, DS513, DS516, DS518, DS523, DS529, DS533, DS534, DS536, DS538, DS539, DS544, DS545, DS546, DS548, DS550, DS551, DS552, DS553, DS556, DS564

¹ <http://www.vavt.ru/materials/site/BE758A6F>

Cont'd

1	2
3. Restrictions on exports.	DS431, DS432, DS433, DS508, DS509, DS541
4. Intellectual property rights.	DS441, DS458, DS467, DS542.
5. Subsidies (including those related to tax exemptions and other preferential treatments).	DS502, DS456, DS472, DS487, DS497, DS489, DS510, DS511, DS522.
6. Tariffs and tariff-rate quotas.	DS492, DS517, DS557, DS558, DS559, DS560.
7. Economic sanctions.	DS526.

Source: Baeva M. A. (2015) Russian participation in the WTO trade disputes and dispute settlement // Russian Foreign Economic Journal, 3. P. 75–90.

As for the agreements covering the disputes where Russia acted as a third party (one dispute is usually covered by several agreements), their by-theme distribution is shown in Fig. 38 (only ‘unique’ disputes were selected – that is, the duplication of those measures that gave rise to several disputes was removed). The majority of these disputes have to do with the GATT, the Anti-Dumping Agreement, and the Agreement on Subsidies and Countervailing Measures (ASCM). Besides, Russia’s concerns also targeted inconsistencies with the Agreement Establishing the WTO and the Agreement on Safeguards.

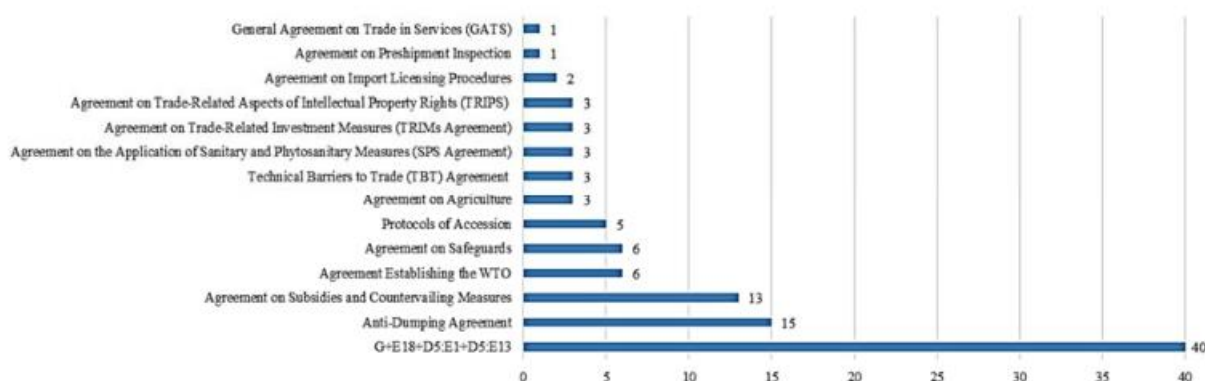


Fig. 38. The themes of disputes where Russia acted as a third party

Source: own compilation based on data published on the WTO’s official website: URL: https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds462_e.htm

First of all, let us review the changes that occurred over the past year in the situation with regard to those disputes handled by the WTO where Russia participated as a third party prior to 2018.

DS437: United States – Countervailing Duty Measures on Certain Products from China

The dispute was initiated in late May 2012. China claimed that it encountered various difficulties when trying to access the results of investigations by USA that had served as the grounds for US countervailing measures against China. China cited approximately 20 such investigations conducted by the USA and targeting in the main

the products of metallurgy and the steel industry (for example, tubes and pipes, steel wheels, steel wire, etc.). China believes that the USA acted on an incorrect allegation that state-owned enterprises were ‘public bodies’ that were conferring countervailable subsidies through their sales of inputs to downstream producers. Besides, China pointed out that the US Department of Commerce (USDOC) initiated its investigation based on erroneous findings, in particular it failed to provide sufficient evidence that the subsidy would be specific for a given enterprise or industry. Also, the USDOC improperly calculated the alleged amount of benefit based on the prevailing market conditions in China.

From late July 2016, the panel was examining the implementation, by the respondent, of the DSB’s recommendations that the measures at issue should be made properly consistent by April 1, 2016. On March 21, 2018, the panel presented its report, and in late April - early May the USA and China both appealed against the panel ruling.

DS441, DS458, DS467: Australia – Certain Measures Concerning Trademarks, Geographical Indications and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging (Dominican Republic, Cuba, Indonesia)

In 2012–2013, several countries initiated disputes against Australia with respect to its requirements that all tobacco products should be sold in plain packaging without any trademarks, or display of design and figurative features, or company logos. The complainants claimed that by doing so, Australia acted inconsistently with the norms and rules of the WTO, including those covering intellectual property rights. Russia joined the dispute on the respondent’s side because of its own national anti-tobacco policies. On June 28, 2018, the panel presented its report that supported Australia, because it was not found to have violated the norms and rules of the WTO, and so the respondent was not required to resort to any acts. Among the complainants, only the Dominican Republic appealed against the ruling on August 23, 2018.

DS456: India – Certain Measures Relating to Solar Cells and Solar Modules (USA, 06.02.2013)

In early February, the USA filed a request for consultations with India concerning the measures introduced by the latter in the solar power industry. The DSB ruled that the Indian Government’s decision to establish and maintain domestic content requirements provided less favorable treatment to imported solar cells and solar modules than that accorded to like products originating in India. On December 19, 2017, the USA requested the authorization of the DSB to suspend concessions or other obligations on the grounds that India had failed to comply with the DSB’s recommendations.

At the DSB meeting in January 2018, the matter was referred to arbitration, because the parties had failed to enter into negotiations. On January 23, India requested the establishment of a compliance panel, and in late February the DSB agreed to refer the matter to the original panel.

The opportunities for increasing exports of the products at issue to India (their relative share in Russia's total exports of like products is currently about 5%¹) that will arise after the restrictions on foreign imports are lifted by India are of great practical interest for Russia.

DS471: USA – Certain Methodologies and Their Application to Anti-Dumping Proceedings Involving China (China)

The dispute was initiated in late 2013. The USA used a 'zeroing' methodology in its anti-dumping investigation, whereby a weighted average export price that was above or equal to a weighted average normal value was treated as zero, thus being disregarded when determining a margin of dumping for the product as a whole, and so the margin was inflated. China claimed that the methodology was inconsistent with the Anti-Dumping Agreement in that it incorrectly determined the fact and evidence of dumping and led to incorrect calculation and levying of anti-dumping duties. The panel upheld nearly all of the claims presented by China. In May 2017, the DSB, having adopted the AB's report, recommended that the USA should make its measures properly consistent by August 22, 2018.

On 9 September 2018, China requested the authorization of the DSB to suspend concessions or other obligations pursuant to Article 22.2 of the DSU ('suspending concessions or other obligations under the covered agreements') on the grounds that the United States had failed to comply with the DSB's recommendations and rulings within the reasonable period of time. The USA informed the DSB that it objected to China's proposed level of suspension of concessions. In late September 2018, the matter was referred to arbitration.

Anti-dumping investigations and anti-dumping measures are at issue in the majority of disputes initiated by Russia, thus underlining Russia's systemic interest in such matters. In April 2017, the USA initiated an anti-dumping investigation against imports of hot-rolled bars originating in Russia. Therefore the anti-dumping investigation methodologies applied by the USA are causing concern for Russia.

DS472, DS497: Brazil – Certain Measures Concerning Taxation and Charges (EU, Japan)

In 2013 and 2015, disputes were initiated against Brazil. According to the complainants, by means of establishing certain government programs in the automotive and electronics sectors, Brazil provided preferences and support to domestic producers and exporters, which was inconsistent with one of the core principles maintained by the WTO – that of 'national treatment'. The measures at issue were the imposition of a higher tax burden on imported goods than on domestic goods, tax advantages conditioned to the use of domestic goods, and the provision of export contingent subsidies. On August 30, 2017, the panel presented its report. The complainants' claims to Brazil were upheld and the measures at issue were recognized to be inconsistent with

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

the WTO norms. The panel determined that the discriminatory aspects of the government programs could indeed conduce to the establishment, in Brazil, of competitive and sustainable domestic industry capable of supplying the domestic market. However, Brazil did not demonstrate that such measures were indeed necessary for capacity-building of suppliers, because imports were not taken into consideration. The panel concluded that the alternative approaches (such as non-discriminatory subsidies or lowered trade barriers for imports of digital television transmitters) suggested by the complainant were not inconsistent with the WTO norms and were more compatible with the declared goals.

In autumn 2017, Brazil and the EU appealed against the panel ruling. On December 13, 2018, the AB presented its report. The AB agreed with the panel's conclusions that the government tax incentive programs for the automotive and electronics sectors were discriminatory in some of their aspects and inconsistent with the GATT 1994 and the TRIMs Agreement. The AB concluded that none of the measures at issue in the dispute could be justified within the meaning of Article III:8 (b) of the GATT 1994 (National Treatment on Internal Taxation and Regulation). The Appellate Body reversed the panel's findings that the tax suspensions granted to registered or accredited companies under the government programs constituted financial contributions in the form of government revenue, and also reversed the panel's findings that the tax suspensions granted to registered or accredited companies under the PEC and RECAP programs constituted financial contributions in the form of export subsidies. As for the import substituting subsidies, the AB upheld the panel findings for some programs, while reversing the findings for other programs. The AB reversed the panel's conclusions that Brazil withdrew the prohibited subsidies found to exist within 90 days because the underlying reasoning was not related to the specific circumstances of this case.

This dispute is of interest to Russia from the point of view of taxation practices and the settlement of disputes arising in this connection.

DS480: EU – Anti-Dumping Measures on Biodiesel from Indonesia (Indonesia)

In June 2014, Indonesia filed a request for consultations with the EU concerning Council Regulation (EC) No 1225/2009 dated November 30, 2009, with respect to anti-dumping measures imposed by the EU in 2013 on imports of biodiesel originating in Indonesia, and the underlying investigation. In particular, the cost adjustment methodology was disputed. In late February 2018, the DSB adopted the panel's report with the recommendation that the measures at issue were to be made properly consistent. The cost adjustment practices *per se* were not recognized to be inconsistent with the norms and rules of the WTO, but the anti-dumping investigation and measures introduced by the EU against imports of biodiesel from Indonesia were indeed inconsistent in some of their aspects. On October 20, 2018, the EU adopted the measure necessary to comply with the DSB's recommendations through implementing Regulation (EU) 2018/1570 (see the similar dispute initiated by Argentina (DS473)).

Russia noted that the EU Regulation was amended simultaneously with granting to Russia, in 2002, the market-economy status. In particular, the amendments enabled the EU to adjust the costs stated in producer/exporter documents on the basis of ‘information concerning other representative markets’. In Russia’s opinion, such practices are inconsistent with the WTO norms. Under the Anti-Dumping Agreement, the cost data applied in an investigation must reflect the actual costs related to the production and sale of goods in the country of origin. Russia believes that the notion of ‘dumping’ cannot refer to the prices of production resources.

DS484: Indonesia – Measures Concerning the Importation of Chicken Meat and Chicken Products (Brazil)

In October 2014, Brazil filed a request for consultations with Indonesia concerning the restrictive administrative procedures and measures on the importation of chicken meat and chicken products to the Indonesian poultry market. Brazil complained of the non-approval, by Indonesia, of the provided health certificate; of the imposition of a non-automatic import licensing regime to chicken meat and chicken products; of the requirement of a prior recommendation from the Indonesian Ministry of Agriculture for chicken meat imports and chicken product imports, and the imposition of pre-shipment inspection requirements causing unreasonable delays and applied in a discriminatory manner, etc. On November 17, 2017, the DSB adopted the panel report and issued recommendations that Indonesia should bring the measures found to be inconsistent into conformity with its WTO obligations. The panel ruled that the measures introduced by Indonesia are inconsistent with the provisions of the covered WTO agreements, but also found that some of the respondent's claims had not been sufficiently substantiated (transit restrictions). In December 2017, Indonesia informed the DSB that it would need a reasonable period of time to properly implement its recommendations.

On July 27, 2018, Brazil and Indonesia informed the DSB of agreed procedures under Articles 21 (Surveillance of Implementation of Recommendations and Rulings) and 22 (Compensation and Suspension of Concessions) of the DSU (sequencing agreement).

Russia does not export chicken meat and chicken product to Indonesia, probably because of the restrictions on imports imposed by Indonesia, and so their removal or adjustment can result in new contracts for supplies of the products at issue. Russia's participation in this dispute was motivated by an interest in SPS and TBT measures implemented in proper conformity with the norms and rules of the WTO and the practices of settling such disputes.

DS488: USA – Anti-Dumping Measures on Certain Oil Country Tubular Goods from Korea (Republic of Korea)

In late 2014, the Republic of Korea initiated a dispute with the USA, claiming that the anti-dumping measures on oil country tubular goods and the underlying investigation by the USA were inconsistent with the WTO norms. The USA failed to make a fair comparison between the export price and the normal value by failing to

make due allowance for differences between the products produced by the constructed value (CV) profit source and those produced by respondents, based on selling prices on the markets of third countries. In November 2017, the panel presented its report, where it rejected 7 out of 8 Korea's claims, and agreed that the USA had indeed failed to use actual data of the Korean respondents to determine their constructed value (CV) profit rate, even though their actual home market and third-country market profit data were available. The panel rejected the requests with respect to consistency with the norms and provisions of the WTO of US laws on normal value and export price calculation, procedural acts, and public notification procedures. On January 12, 2018, the DSB adopted the panel report. On February 9, 2018, the USA informed the DSB of its intention to implement the DSB's recommendations and rulings and that it would need a reasonable period of time to do so. Accordingly, the reasonable period of time was set to expire on January 12, 2019.

The dispute has to do with the issues of anti-dumping investigation methodologies, and so it is of systemic importance for the Russian Federation. The relative share of products at issue in Russia's exports to the USA is 35 percent, and in total imports into the USA – 4 percent¹.

DS490, DS496: Indonesia – Safeguards on Certain Iron or Steel Products (Chinese Taipei, Viet Nam)

In 2015, disputes were initiated with Indonesia. According to the complainants, the safeguard measures on imports of certain flat-rolled product of iron or non-alloy steel were inconsistent with the WTO norms. Indonesia provided no reasoned and adequate explanation concerning investigated imports and failed to properly demonstrate how increased imports could cause or threaten to cause serious injury to the domestic industry. Indonesia failed to provide an opportunity for consultations prior to the imposition of the safeguard measure. The measures imposed by Indonesia are inconsistent with the general principle of MFN, because they are applied only to products originating in certain countries, and Indonesia excluded from the said measures 120 developing countries, Russia including. On August 18, 2017, the panel presented its report, whereby it ruled that the measures at issue did not qualify as safeguards, and recommended that they should be made consistent with the MFN. In autumn 2017, each of the parties filed an appellee's submission. The AB in its report, presented in mid-August 2018, agreed with the panel findings. The parties agreed that Indonesia would bring its measures into conformity with its obligations by March 27, 2019.

For Russia, the relevant aspects of the dispute were the practices of settling matters related to safeguards and conducting an investigation thereof. Russia's interest in such a dispute could be indirectly stirred by the anti-dumping measures introduced by Indonesia over the period from December 27, 2013 through December 26, 2018 against

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

imports of hot-rolled flat products of steel originating in Russia (the import duties for some companies were as high as 20 percent)¹.

DS492: EU – Measures Affecting Tariff Concessions on Certain Poultry Meat Products (China)

In April 2015, China filed a request for consultations with the EU, because the EU undertook tariff modification negotiations with Thailand and Brazil concerning certain poultry meat products, in which these two countries have a significant vested interest, while China, although it has a similar interest, was denied an opportunity for such negotiations. The tariff rate quotas were almost entirely reserved for Brazil and/or Thailand, and out-of-quota bound rates were significantly in excess of the pre-modification bound rates. In March 2017, the panel presented its report, where the complainant's claims were upheld only with regard to 2 out of 10 tariff quotas at issue. The panel found that the EU's allocation of TRQ shares among the supplying countries was inconsistent with the requirements of the GATT 1994, and upheld China's claim that its increased ability to export poultry products to the EU following the relaxation of the SPS measures in July 2008 was a 'special factor' that had to be taken into account by the EU when determining which countries had a 'substantial interest' in supplying the products concerned, or when determining the TRQ shares to be allocated to the category of 'all other' countries that were not recognized as substantial suppliers (including China). All the other claims presented by China were rejected. The DSB recommended the EU to bring its measures into conformity with the WTO norms within a reasonable period of time.

In May 2018, the EU and China informed the DSB that in the event that they were unable to reach a mutually agreed solution, or the EU failed to carry out its obligations set out in the mutually agreed solution, the reasonable period of time would be deemed to have ended on July 19, 2018. No further actions have been undertaken so far. Very likely, the respondent brought the measures at issue in conformity within the established period.

The dispute is interesting from the point of view of changes in the list of bound rates of tariffs, understanding of the negotiating procedure, etc. The EU has also introduced a tariff rate quota for Russia, but it is quite low (about 30,000 t of poultry meat products)².

DS495: Republic of Korea – Import Bans, and Testing and Certification Requirements for Radionuclides (Japan)

In May 2015, Japan filed a request for consultations with the Republic of Korea regarding the measures adopted by the latter subsequent to the accident at the Fukushima

¹ Overview of existing restrictions on access of Russian products to foreign markets. URL: http://www.ved.gov.ru/rus_export/partners_search/torg_exp/

² Overview of existing restrictions on access of Russian products to foreign markets. URL: http://www.ved.gov.ru/rus_export/partners_search/torg_exp/

Daiichi nuclear power plant: import bans on certain food products; additional testing and certification requirements regarding the presence of certain radionuclides; and a number of alleged omissions concerning transparency obligations under the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement).

On February 22, 2018, the panel presented its report, and the claims of neither of the parties were upheld in full. It was found that the Korean measures were generally consistent with the WTO norms, but that they more trade-restrictive than required to meet their health objective, and besides, it was found that Korea failed to comply with its transparency obligations with respect to the publication of all the measures. In April 2018, the parties appealed and cross-appealed the panel decisions.

Russia, in addition to the obvious interest in the procedural aspects of the dispute settlement practices in the sanitary and phytosanitary field in accordance with the norms and rules of the WTO, has also a direct interest in such matters. The reason for this interest is that, after the accident at the Fukushima Daiichi nuclear power plant in March 2011, Russia also imposed a ban on fish imports from Japan, which was lifted by the Federal Service for Veterinary and Phytosanitary Surveillance of Russia only as late as summer 2015.

DS510: USA – Certain Measures Relating to the Renewable Energy Sector (India)

On September 9, 2016, India filed with the WTO a request for consultations with the USA regarding certain measures of the USA relating to domestic content requirements and subsidies instituted by the governments of several US states¹. These are state programs that provide performance-based incentives for the use of domestic components in the renewable energy sector, in particular a renewable energy cost recovery incentive for customers of light and power businesses for generating electricity from renewable sources, self-generation and hydropower systems, solar photovoltaic (PV) systems, and also tax incentive for ethanol production and tax credit for biodiesel blending and storage, etc. As consultations between the parties did not result in an agreement, on April 24, 2018, at the complainant's request, a panel was established, and its report is expected to be presented in Q2 2019.

In 2017, Russia joined the dispute as a third party. The outcome of the dispute, as well as of the similar dispute between the USA and India (DS456)², also joined by Russia, will be relevant for Russia because they offer a potential for increasing the volume of exports of the products at issue to these countries. The relative share of Russian exports of the products at issue to India in Russia's total exports shrank from approximately 8 percent in 2013 to 5 percent in 2016³. Besides, due to the high importance of the goal of developing alternative energy sources for Russia, it is necessary to give consideration to

¹ URL: https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds510_e.htm

² URL: https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds456_e.htm

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

the use of domestic content in the production process, and also to subsidize production in such a way that would not be inconsistent with the norms and rules of the WTO.

DS513: Morocco - Anti-Dumping Measures on Certain Hot-Rolled Steel from Turkey (Turkey)

In October 2016, Turkey initiated a dispute with Morocco regarding the imposition of definitive anti-dumping measures, and certain aspects of the underlying investigation, by Morocco on imports of certain hot-rolled steel from Turkey¹. Turkey has concerns about the use by the Moroccan authorities of registration/licensing requirements and their failure to issue import licenses following the imposition of provisional anti-dumping measures. Turkey believes that act to be an additional impermissible ‘specific action against dumping’, which is inconsistent with the provisions of the WTO. The anti-dumping investigation procedures and the imposed measures, according to the complainant, were also contrary to certain provisions of the Anti-Dumping Agreement and the GATT 1994.

The panel, however, found that the Moroccan authorities failed to conclude the investigation within the 18-month maximum time-limit set out in that provision. It also found that Morocco had acted inconsistently with Article 6.9 by failing to inform all interested parties of certain ‘essential facts’. In late October 2018, the panel presented its report, where it was demonstrated that Morocco acted inconsistently with the norms of the WTO because, for example, the anti-dumping investigation was not concluded within the established period of 18 months, did not inform all the parties of its findings and ‘essential facts’, etc. The panel suggested that Morocco should immediately revoke the measures at issue. On November 20, 2018, Morocco appealed against the panel ruling.

Russia has a strong trade interest in this dispute because the relative share of ferrous metals exported by Russia to Morocco in Russia’s total exports of such products amounted to 6 percent in 2016, and its relative share in Morocco’s total imports of such products was 1 percent². Such disputes concerning anti-dumping measures are interesting to Russia from both systemic and practical points of view.

DS517: China – Tariff Rate Quotas for Certain Agricultural Products (USA)

In late 2016, the USA requested consultations with China concerning China’s administration of its tariff rate quotas, including those for wheat, some types of rice, and corn. The USA claimed that China acted contrary to its obligations assumed under the Protocol of Accession to the WTO, because its tariff-rate quotas (TRQ) for wheat, rice and corn were not transparent and predictable. The USA believed that China acted inconsistently with some provisions of the GATT 1994 by introducing prohibitions and restrictions on imports other than duties, taxes or other types of levies and failing to

¹ URL: https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds513_e.htm

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

provide public notice of quantities permitted to be imported under each TRQ and of changes to these quantities.

On February 12, 2018, the USA requested that panel be established, and its report is expected to be presented in Q2 2019.

For Russia, the progress of this dispute is of great interest, because the relative share of the products at issue exported from Russia to China in Russia's total exports of these products shrank from 7 percent in 2012 to 0.2 percent in 2016, and that of rice – from 16 to 0.7 percent¹.

DS518: India – Certain Measures on Imports of Iron and Steel Products (Japan)

In late 2016, Japan filed with the WTO a request for consultations with India concerning certain measures imposed by India on imports of iron and steel products into India. Japan disputes the temporary safeguard measures on imports of 'hot-rolled flat products of non-alloy and other alloy steel in coils of a width of 600 mm or more'. The safeguard duty was not to be imposed on the products at issue that were imported at or above certain price listed in the notification. Japan claimed that the measures appear to be inconsistent with the GATT 1994 and the Agreement on Safeguards.

In early November 2018, the panel presented its report, whereby it upheld almost all of Japan's claims. On December 14, 2018, India appealed against the panel ruling.

The investigation results are of significant interest to Russia. After the imposition by India of the measures at issue, Russian exports of all the relevant products to India in 2016 shrank by 44 percent relative to 2015, and for one commodity item the index fell from USD 13 million to 0².

DS522: Canada – Measures Concerning Trade in Commercial Aircraft (Brazil)

In early 2017, Brazil filed a request for consultations with Canada with respect to measures concerning trade in commercial aircrafts³. This a fourth dispute in a row initiated by Brazil against Canada concerning Brazilian measures affecting the aircraft industry. In this particular dispute, Brazil complains against alleged support in the form of subsidies provided by the Canadian government to Bombardier, Inc. in the framework of its C-Series aircraft program, among other things. According to Brazil, the government of the province of Quebec, which holds a 49.5 percent share in a newly-created entity supervised by Bombardier, invested CAD 1.3 billion in the Canadian aircraft manufacturer, and these measures caused nullification or impairment of benefits accruing directly or indirectly to Brazil⁴. Brazil believed that these were prohibited and actionable subsidies, inconsistent with the Agreement on Subsidies and Countervailing

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

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

³ URL: https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds522_e.htm

⁴ URL: <https://aeronautica.online/2016/12/23/brazil-vs-canada-in-wto/>

Measures ('SCM Agreement'). From February 6, 2018, the procedure of panel examination was launched.

Russia already participated, in 2015, in a similar dispute between the EU and the USA with respect to subsidies in the aircraft industry (DS487, Airbus and Boeing). This industry, the permitted measures for its support, the practices of disputing those measures that are inconsistent with the norms and rules of the WTO, and the systemic aspects of such disputes, are all of great importance for Russia.

DS523: USA – Countervailing Measures on Certain Pipe and Tube Products (Turkey, 08.03.2017)

In March 2017, Turkey initiated a dispute against the USA with respect to countervailing measures imposed by the USA on certain types of pipe and tube products from Turkey¹. Turkey claimed that the measures appeared to be inconsistent with the Agreement on Subsidies and Countervailing Measures ('SCM Agreement') and the GATT 1994. Turkey's concerns were particularly focused on the USA's determination that certain entities were 'public bodies' within the meaning of SCM Agreement Article 1 ('Definition of a Subsidy'); the determination regarding specificity within the meaning of SCM Agreement Article 2 ('Specificity'), whereby a subsidy is 'specific' if it is specific to an enterprise or industry or group of enterprises or industries, and failure to substantiate it on the basis of positive evidence; the use of facts available and application of adverse inferences in calculating subsidy rates; the determination of injury based on cumulated imports, including imports from countries not subject to countervailing duty investigations or reviews (Article 15.3 'Determination of Injury') of the SCM Agreement.

On December 18, 2018, the panel report was presented. The panel rejected Turkey's claims concerning public body determinations, and the claims in relation to benefit determination and likelihood-of-injury determinations (dismissing Turkey's claims concerning sunset reviews), but upheld the claims concerning 'specificity determinations' and 'resort to the use of facts available' by the USA. The parties have a period of about two months to appeal and cross-appeal the panel ruling.

In addition to the practices of imposing countervailing measures and conducting underlying investigation, and the practices of disputing such measures when they are inconsistent with the WTO norms, Russia is also interested in the outcome of the dispute. In 2016, Russian exports of the products at issue to the USA lost almost 60 percent relative to 2015, while the relative share of exports to the USA in Russia's exports shrank from 14 percent in 2015 to 6 percent in 2016².

¹ URL: https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds523_e.htm

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

DS526: United Arab Emirates – Measures Relating to Trade in Goods and Services, and Trade-Related Aspects of Intellectual Property Rights (Qatar)

In July 2017, Qatar initiated a dispute with United Arab Emirates (UAE) (joined by Russia) concerning measures that individually and collectively affected trade in goods, trade in services, and trade-related aspects of intellectual property rights. Qatar claimed that these measures were inconsistent with the GATT 1994, the GATS, and the TRIPS. From September 3, 2018, the panel examination request by Qatar has been underway.

Russia's interests in the framework of this dispute focus on the practical aspects of filing a complaint in response to economic sanctions, because these issues are usually not discussed by the DSB, and for Russia at present they are very important in view of the currently introduced sanctions. Russia also filed a complaint against Ukraine concerning imposed economic sanctions (DS525). Besides, among other things, the complainant demanded that Al Jazeera TV channel should be closed, and this measure is similar to the restrictions imposed on Russia Today TV channel's broadcasting in the USA, because both these channels distribute alternative content.

Below we discuss 25 disputes (all in all, they address 15 measures because, in the framework of several formally distinctive cases, different complainants dispute one and the same measure), that were joined by Russia as a third party in 2018.

DS524: Costa Rica – Measures Concerning the Importation of Fresh Avocados from Mexico (Mexico)

On March 8, 2017, Mexico filed with the WTO a request for consultations with Costa Rica with respect to certain measures allegedly restricting or prohibiting the importation of fresh avocados for consumption from Mexico. Mexico claimed that the measures appeared to be inconsistent with some articles of the GATT 1994 and the SPS Agreement, in particular the concept of regionalization in adaptation to regional conditions, including pest- or disease-free areas. On November 22, 2018, after the parties failed to come to an agreement in the course of consultations, Mexico requested the establishment of a panel, and on December 18, 2018, the panel was established.

Russia's interest in this dispute is motivated mostly by the practical aspects of participating in disputes focused on SPS measures and the need to systematically study the relevant provisions. Russia is a respondent in a similar dispute initiated by the EU with respect to imports of pork and live pigs (DS475).

DS529: Australia – Anti-Dumping Measures on A4 Copy Paper (Indonesia)

In early September 2017, Indonesia requested consultations with Australia with respect to its refusal to use the Indonesian exporters' home market price as the normal value of raw material (lumber) and the imposition of an anti-dumping order on A4 copy paper, because it found that a particular market situation existed, and the Government of Indonesia had been implementing policies that increased the supply of timber, which allegedly resulted in lower paper prices due to lower timber prices. As the consultations

did not produce the desired result, Indonesia in mid-March 2018 requested that the DSB should establish a panel; the panel was established in late April, and it set out to examine the case on July 12, 2018.

This complaint by Indonesia resembles Russia's claims to the EU (DS474, DS494 and DS521) and Ukraine (DS493), and this was the reason for Russia to join the dispute.

DS531, DS537: Canada – Measures Governing the Sale of Wine in Grocery Stores (USA, Australia)

On September 28, 2017, the USA filed a second request for consultations with Canada with respect to the Canadian provinces of British Columbia, Ontario, Quebec, and Nova Scotia's measures governing the sale of wine in grocery stores (the first one is DS520). Among the measures at issue was the discrimination against imported wine by allowing only Canadian wine to be sold on regular grocery store shelves. The USA claimed that such measures were inconsistent with Article III:4 (National Treatment on Internal Taxation and Regulation) of the GATT 1994. In late May 2018, the USA requested the establishment of a panel, which was established on July 20, 2018.

Australia, one of the world's largest exporters of wine, including to Canada (8 percent of Canada's wine imports and 7 percent of Australia's wine exports in 2017)¹, on January 12, 2018 also requested consultations with Canada on the same issue, in its complaint increasing the number of claims concerning Canada's inconsistency with the provisions of the GATT 1994 by comparison with those presented by the USA. On August 13, 2018, Australia requested the establishment of a panel, which was established on September 26, 2018. As of late 2018, both disputes with Canada were at the stage of appointing panel experts.

As Russia does not export wine to Canada, Russia's participation in that dispute was motivated not by a significant trade-related interest, but by the unusual character of the claims and the desire to gain practical experience of dealing with such a dispute.

DS533: United States – Countervailing Measures on Softwood Lumber from Canada (Canada)

In late November 2017, Canada filed a request for consultations c USA concerning certain countervailing measures with respect to softwood lumber products from Canada. Canada claimed that the USA improperly attributed to the production of softwood lumber products certain alleged subsidies that were bestowed on the production of products that were not under investigation, including under hydro-electricity purchase agreements (renewable energy sources), improperly initiated an investigation into federal and provincial log export permitting processes, and erroneously rejected benchmarks that reflected prevailing market conditions in Canadian provinces. Canada believed that these measures were inconsistent with certain provisions of the GATT 1994 and the Agreement on Subsidies and Countervailing Measures (SCM Agreement).

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

In mid-March 2018, Canada filed a request for the establishment of a panel, which was established on April 9, 2018; on July 6, 2018, panel experts were appointed, and the panel began to examine the case.

Russia joined that dispute not only because of being interested in the practical aspects of a dispute concerning countervailing measures, but also because of having significant trade-related interests. The relative share of the USA in Russia's exports of softwood lumber products (FEACN 440910) in 2017 amounted to 7 percent, and their share in US imports was less than 1 percent.¹

DS534: USA – United States – Anti-Dumping Measures Applying Differential Pricing Methodology to Softwood Lumber from Canada (Canada)

In late November 2018, Canada filed another request for consultations with the USA, this time with respect to the US anti-dumping measures applying the differential pricing methodology to softwood lumber products from Canada. Canada claimed that, in applying the weighted-average-to-transaction (W-T) calculation methodology, the USA improperly aggregated random and unrelated price variations and therefore failed to identify a pattern of export prices, and applied zeroing in its W-T calculation methodology, while zeroing in the W-T methodology did not account for all of the purported pattern transactions in calculating the margin of dumping, and so did not lead to a fair comparison of export prices. Canada believed that these measures and methodology were inconsistent with US obligations under the GATT 1994 and the Anti-Dumping Agreement.

In mid-March 2018, Canada filed a request for the establishment of a panel, on April 9, 2018 it was established, and on May 22, 2018 it began to examine the case. The panel report is expected to be circulated in H1 2019.

Similarly to the dispute between Canada and the USA concerning countervailing measures with respect to softwood lumber products (DS533), Russia's participation in this dispute was determined not only by an interest in the practical aspects of a dispute concerning countervailing measures, but also by significant trade-related interests. The relative share of the USA in Russia's exports of softwood lumber products (FEACN 440910) in 2017 amounted to 7 percent, and their share in US imports was less than 1 percent.

DS536: United States – Anti-Dumping Measures on Fish Fillets from Viet Nam – Constitution of the Panel established at the request of Viet Nam (Viet Nam)

On January 8, 2018, Viet Nam filed with the DSB a request for consultations with the USA concerning certain anti-dumping measures on fish fillets from Viet Nam and other US legal instruments, in particular the zeroing methodology applied in the underlying anti-dumping investigation. The complainant claimed that these measures were inconsistent not only with the GATT 1994 and the Anti-Dumping Agreement, but also

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

with the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), the WTO Agreement, and Viet Nam's Protocol of Accession to the WTO.

Russia joined the dispute because of an interest in the practical aspects of settling disputes with the USA concerning countervailing measures. Russia likewise joined, as a third party, the dispute initiated by China against the USA with respect to zeroing methodology (DS471), where almost all of the claims presented by China were upheld by the DSB, and the USA was required to bring its measures in conformity by August 22, 2018; however, as of late 2018, the arbitrator composed by the original panel members was examining the issue of concessions or other obligations required from China.

DS538: Pakistan – Anti-Dumping Measures on Biaxially Oriented Polypropylene Film from the United Arab Emirates (UAE)

In late January 2018, the UAE filed a request for consultations with Pakistan concerning Pakistan's anti-dumping measures on imports of biaxially oriented polypropylene film from the UAE (BOPP film). The UAE claimed that the anti-dumping investigation and the following anti-dumping measures were inconsistent with the GATT 1994 and the Anti-Dumping Agreement. For example, there was insufficient accurate and adequate evidence to justify the initiation of the anti-dumping investigation, and the application filed by Pakistan should therefore have been rejected.

In mid-May 2018, the UAE filed a request with the DSB for the establishment of a panel, and it was established in late October 2018. As of late 2018, the dispute was undergoing the stage of appointment of panel experts.

Anti-dumping investigations were also initiated by Pakistan against certain Russian companies, but the corresponding measures were not imposed on Russian imports of hot-rolled steel sheets (proceedings started in early April 2009 and ended in late February 2011) and *phthalic anhydride* (proceedings started in mid-February 2016 and ended in mid-December 2017)¹.

DS539: United States – Anti-Dumping and Countervailing Duties on Certain Products and the Use of Facts Available (Republic of Korea)

On February 14, 2018, the Republic of Korea filed with the DSB a request for consultations with the USA concerning certain anti-dumping and countervailing duty measures imposed on products from Korea, and certain laws, regulations and other measures maintained by the USA with respect to the use of facts available in anti-dumping and countervailing duty proceedings.

The Republic of Korea complained that the USA developed a practice of using adverse facts available as a rule or norm in anti-dumping and countervailing duty investigations and reviews, and claimed that Korean producers or exporters failed to cooperate to the best of their ability, and the USA failed to comply with its obligations relating to the use of facts available when making preliminary and/or final

¹ URL: <http://i-tip.wto.org/goods/>

determinations of dumping and/or subsidization, which has a direct consequential effect on the imposition and maintenance of anti-dumping or countervailing duties, and the level of such duties

In mid-April 2018, Korea filed a request for the establishment of a panel, which was established in late May 2018, and on December 5, 2018, the panel began to examine the case.

In April 2017, the USA initiated an anti-dumping investigation of certain Russian producers of hot-rolled steel rods¹. Therefore the methodologies applied by the USA in the course of anti-dumping investigations are of interest to Russia, as earlier Russia has already joined some disputes with the USA initiated with respect to its anti-dumping investigation methodologies.

DS541: India – Export Related Measures (USA)

In March 2018, the USA filed a complaint against India concerning certain alleged export subsidy measures that the USA believed to be inconsistent with Articles 3.1(a) and 3.2 (Prohibition) of the Agreement on Subsidies and Countervailing Measures. The USA claimed that India provided export subsidies through its Export Oriented Units Scheme and sector specific schemes, including electronics hardware technology parks scheme, the merchandise exports from India scheme, the export promotion capital goods scheme, special economic zones, and a duty-free imports for exporters program.

On May 17, 2018, the USA filed a request for the establishment of a panel, because the dispute was not settled at the stage of consultations. On July 23, 2018, the panel began to examine the case, and its report is expected to be presented not earlier than Q2 2019.

Probably, Russia joined this dispute not so much because of its trade-related interests (Russia's total exports to India in 2017 amounted to approximately 2 percent of Russia's total exports), as its interest in the practical aspects of various export promotion schemes and their potential *disputability* in the framework of the WTO dispute settlement mechanism.

DS542: China – Certain Measures Concerning the Protection of Intellectual Property Rights (USA)

On March 23, 2018, the USA filed with the DSB a request for consultations with China concerning certain Chinese measures pertaining to the protection of intellectual property rights. The essence of the USA's claims is that China denied foreign patent holders the ability to enforce their patent rights against a Chinese joint-venture party after a technology transfer contract ended. China also imposed mandatory adverse contract terms that discriminated against and were less favorable for imported foreign technology. Therefore, China deprived foreign intellectual property rights holders of the ability to protect their intellectual property rights in China, as well as to freely negotiate market-based terms in licensing and other technology-related contracts.

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

On October 18, 2018, the USA filed a request for the establishment of a panel, and it was established on November 21, 2018. As of late 2018, the dispute was undergoing the stage of appointment of panel experts.

Russia's participation in this dispute can be explained not only by an interest in analyzing the outcome of the trade war between the USA and China, where Russia has also taken some part (with respect to steel and aluminum), but also by Russia's significant interest in contracts with China that have to do with technologies and the protection of intellectual property rights of Russian suppliers.

DS544, DS548, DS550, DS551, DS552, DS556, DS564: United States – Certain Measures on Steel and Aluminum Products (China, EU, Canada, Mexico, Norway, Switzerland, Turkey)

On 5 April, 2018, China; on June 1, 2018, the EU and Canada; on June 5, 2018, Mexico; on June 12, 2018, Norway; and on August 15, 2018, Turkey filed their requests for consultations with the USA concerning certain measures on steel and aluminum products imposed by the USA.

In late June 2018, Russia also filed a similar complaint with the DSB against the USA concerning the measures at issue (DS554) (see earlier).

DS545: United States – Safeguard Measure on Imports of Crystalline Silicon Photovoltaic Products (Republic of Korea)

On May 14, 2018, the Republic of Korea filed with the DSB a request for consultations with the USA concerning definitive safeguard measures imposed by the United States on imports of certain crystalline silicon photovoltaic products. Korea claimed that these measures were inconsistent with the Agreement on Safeguards and the GATT 1994, because the USA failed to provide a reasoned and adequate explanation of any unforeseen developments and the effect of the obligations incurred under the said agreements, and that these indeed resulted in the increased imports causing serious injury to the domestic industry.

In mid-August 2018, Korea filed with the DSB a request for the establishment of a panel, and it was established in late September 2018. As of late 2018, the dispute was undergoing the stage of appointment of panel experts.

Russia joined this dispute as a third party, because safeguard measures imply protection against all countries, Russia including. Besides, Russia wants to gain some experience in handling disputes with the USA with respect to safeguards, because Russia itself has initiated a similar dispute (DS554).

DS546: United States – Safeguard Measure on Imports of Large Residential Washers (Republic of Korea)

In mid-May 2018, the Republic of Korea filed with the DSB a request for consultations with the USA concerning definitive safeguard measures imposed by the United States on imports of large residential washers, which Korea believed to be

inconsistent with certain provisions of the Agreement on Safeguards and the GATT 1994. In particular, similarly to the previously discussed dispute (DS545), Korea considers that the USA failed to make a determination regarding the existence of unforeseen developments resulting in increased imports, and the effect of the obligations incurred under the GATT 1994.

In mid-August 2018, Korea filed a request for the establishment of a panel, and it was established on September 26, 2018. As of late 2018, the dispute was undergoing the stage of appointment of panel experts.

Russia joined this dispute as a third party, because safeguard measures imply protection against all countries, Russia including. Besides, Russia wants to gain some experience in handling disputes with the USA with respect to safeguards, because Russia itself has initiated a similar dispute (DS554).

DS553: Republic of Korea – Sunset Review of Anti-Dumping Duties on Stainless Steel Bars (Japan)

On June 18, 2018, Japan filed with the DSB request for consultations with the Republic of Korea concerning Korea's determination to continue the imposition of anti-dumping duties on stainless steel bars (SSB) from Japan as a conclusion in the third sunset review. Japan believed that the measures at issue were inconsistent with Korea's obligations under certain provisions of the Anti-Dumping Agreement and the GATT 1994 because, in particular but not limited to, Korea failed to properly determine, as the basis to continue the imposition of anti-dumping duties on the imports from Japan, that the expiry of the duties would be likely to lead to continuation or recurrence of injury. Korea failed to demonstrate the nexus between the expiry of the duties and a continuation or recurrence of injury, and to comply with the fundamental requirement that such determination should rest on a sufficient factual basis and reasoned and adequate conclusions.

On September 13, 2018, Japan filed a request for the establishment of a panel, and it was established in late October 2018. As of late 2018, the dispute was undergoing the stage of appointment of panel experts.

Over the period from October 27, 2008 to April 9, 2015 Korea imposed anti-dumping duties on kraft paper imports by certain Russian companies. Russia's interest in this dispute can be explained by the need to gain practical experience in measures designed to protect the domestic market.

DS557: Canada, DS558: China, DS559: EU, DS560: Mexico – Additional Duties on Certain Products from the United States (USA)

On July 16, 2018, the USA filed with the DSB requests for consultations with Canada, China, the EU, and Mexico concerning the imposition of additional duties (that is, increased duties with respect to certain products originating in the USA in response to the imposition, by the USA, of safeguard measures with respect to steel and aluminum products).

Besides, the USA also filed a complaint concerning similar measures against Russia (DS566) (see earlier). As of late 2018, the dispute was undergoing the stage of appointment of panel experts.

* * *

Russia continues to actively participate in the settlement of trade disputes handled by the WTO. In a majority of cases, Russia acts as a complainant or respondent in disputes between WTO members with the EU and Ukraine. In 2018, two new disputes with the USA were initiated. As a complainant, Russia is concerned in the main with anti-dumping investigations and anti-dumping measures, in particular in metallurgy and the chemical industry. Complaints against Russia in the framework of the WTO are filed by its members with respect to the following issues: technical barriers to trade; sanitary and phytosanitary measures; anti-dumping measures; investment measures influencing trade; tariffs; transit restrictions.

Overall, in 2012–2018, three disputes initiated against Russia underwent the main dispute settlement stages:

1. In the dispute initiated by the EU with respect to the duty rates that exceeded the ad valorem bound rate as of the moment of Russia's accession to the WTO (palm oil, refrigerators, paper and paperboard), in summer 2017 Russia adjusted all the duty rates at issue through decisions of the EEU and the EEC (DS485);

2. By the end of the reasonable period requested for the implementation of the DSB's recommendations, on December 6, 2017 Russia lifted the EU-wide ban on imports of pork, live pigs and pork products, with the exception of certain administrative territories that Russia considers to be dangerous with respect to outbreaks of African swine fever (ASF). However, as live pigs were added to the list of products that are subject to a ban on importation into the RF territory, no imports were effectively allowed. The EU claimed that Russia failed to implement all the recommendations of the DSB, and so requested the establishment of a compliance panel. The EU also requested the authorization of the DSB to suspend concessions or other obligations. EU filed a request that concessions and obligations to the value of EUR 1.39 billion per annum (an amount equivalent to total exports in 2013) with annual increase of 15 percent should be suspended. As Russia disagreed, the matter was referred to arbitration (DS475);

3. Anti-dumping measures against imports of light commercial vehicles (LCV). Russia abolished its anti-dumping duties on light commercial vehicles imported from Germany and Italy. The time-frame for implementing the DSB's recommendations coincided with the end of the period during which they were to be in effect. Due to the lengthy dispute settlement procedure practiced by the WTO coupled with an absence of any requirements that the measures at issue should be suspended over the dispute settlement period, the anti-dumping measures remained in effect throughout the announced 5-year period (DS479).

As far as the disputes initiated by Russia through the WTO are concerned, none of these has yet progressed through all the dispute settlement stages. Two disputes – one against the EU concerning the EU Third Energy Package (DS476), the other against Ukraine concerning anti-dumping measures against imports of ammonium nitrate (DS493) – undergo the stage of ‘panel report under appeal’.

As a third party, Russia usually joins the disputes focused on the products of metallurgy, agriculture, the food industry, the automotive and aircraft industries, renewable energy sources, and lumber and wood products. Special focus is made on those disputes that address anti-dumping investigations and the resulting anti-dumping measures. Russia’s participation as a third party can be explained not only by a strong trade-related interest, but also by the need to gain practical experience of settling a dispute, as well as a systemic interest in the procedures governed by the norms and rules of the WTO.

Russia’s role as a third party is usually motivated by:

- 1) *significant trade-related interests* (for example, on April 10, 2015 China lifted the anti-dumping duties on imports of grain oriented flat-rolled electrical steel (‘GOES’) from the USA and Russia (DS414));
- 2) *practical experience of participating in disputes addressing specific themes* (in particular, anti-dumping, countervailing and safeguard measures, and underlying investigations);
- 3) *systemic interest in the implementation of norms and rules of the WTO* (in the framework of WTO Agreements. The most recent examples are the disputes initiated by the USA and Australia against Canada concerning measures governing the sale of wine in grocery stores (DS531 and DS537);
- 4) *sometimes Russia sides with the respondent* (as a rule, with respect to issues of human and animal health protection). Examples: the disputes initiated by Canada and Norway against the EU concerning measures prohibiting the importation and marketing of seal products (DS400 and DS401); the disputes initiated against Australia concerning trademark restrictions and other plain-packaging requirements for tobacco products (DS441, DS458 and DS467).

For Russia, it is extremely important to assume a correct standpoint and apply correct tactics in the framework of disputes handled by the WTO in order to develop mutually beneficial trade consistent with the norms and rules of the WTO, while protecting Russia’s own interests. It is essential to use to good advantage the WTO’s dispute settlement mechanism. Besides, another relevant aspect is Russia’s reputation as a ~~reliable and responsible trade partner~~ and WTO member. One more highly disputable issue that has recently gained in importance is the potential reform of the WTO, and in particular its dispute settlement mechanism (for example, the appointment of the Appellate Body). Russia should follow the course of development and preservation of the WTO as the main plurilateral floor for settling international trade issues, including the WTO’s dispute settlement mechanism, and further increasing the transparency of its procedures governing international trade.