

Client Alert

International Trade & Litigation Practice Group

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WTO Accession of the Russian Federation

After 18 years of negotiations, on 16 December 2011, Members of the World Trade Organization (WTO) accepted the terms of the Russian Federation's accession. Russia will officially become a WTO Member 30 days following the ratification of its Protocol of Accession, which will take place before 15 June 2012.

Russia's WTO accession commitments and its adherence to WTO rules will provide a "rule book" for trading goods and services with Russia, for protecting intellectual property, and for settling international trade disputes. The "rule book" consists of all WTO agreements as well as the Report of the Working Party on the Accession of the Russian Federation to the WTO. The Working Party Report includes a discussion of Russia's trade and investment regime and sets out binding commitments to follow WTO rules and additional commitments on all issues affecting international trade. Russia will also benefit from being a Member of the Organization because it will have predictable access to over 150 markets in accordance with WTO rules.

Lower Import Tariffs, Fewer Subsidies and Reduced Export Duties

Consistent with WTO requirements, Russia's trade regime will be governed by transparent and predictable rules, and tariffs will be reduced in many industrial sectors. Russia's average final, legally binding tariff ceiling for agricultural products will be 10.8%, instead of the current average of 13.2%, and 7.3% for industrial goods instead of 9.5% today. In many sectors, tariffs will be significantly reduced, including the following key products:

- 14.9% for dairy products (current applied tariff 19.8%)
- 10.0% for cereals (current applied tariff 15.1%)
- 7.1% for oilseeds, fats and oils (current applied tariff 9.0%)
- 5.2% for chemicals (current applied tariff 6.5%)
- 12.0% for automobiles (current applied tariff 15.5%)
- 6.2% for electrical machinery (current applied tariff 8.4%)
- 8.0% for wood and paper (current applied tariff 13.4%)
- Russia will also phase out tariffs on cotton and information technology products (current applied tariff is 5.4%).¹

For more information, contact:

Sergey B. Komolov
+7 495 797 3797
skomolov@kslaw.com

Jennifer A. Josefson
+7 495 797 3797
jjosefson@kslaw.com

Daniel C. Crosby
+41 22 591 0801
dcrosby@kslaw.com

Stephen J. Orava
+1 202 661 7937
sorava@kslaw.com

King & Spalding
Moscow
10 Vozdvizhenka Street
3rd Floor (Regus)
125009 Moscow
Russian Federation
Tel: +7 495 797 3797
Fax: +7 495 797 3600

Geneva
7 Quai du Mont Blanc
CH-1201 Geneva
Switzerland
Tel: +41 22 591 0800
Fax: +41 22 591 0880

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In addition to lowering tariffs, Russia must follow WTO rules governing import and export operations including disciplines on import fees and charges, customs classification and valuation, quantitative trade restrictions, and non-discrimination.

WTO accession will also result in the elimination of many Russian subsidies. All export subsidies will be eliminated by the date of accession and other subsidies will become “actionable”, meaning they may be challenged under the WTO’s dispute settlement system if they remain in place.

Russia also committed to bind at maximum levels and reduce over time its export duties for a great number of products including mineral fuels and oils, base metals, and wood, pulp and paper products.

Compliance with International Standards

As a WTO Member, Russia must develop and apply all sanitary and phytosanitary measures as well as technical regulations in accordance with the relevant WTO agreements. Russia will only be in a position to apply sanitary and phytosanitary measures and technical regulations to the extent that these are not more trade restrictive than necessary to fulfill legitimate objectives.

From the date of accession of Russia to the WTO, pharmaceuticals, alcohol products and certain products with encryption technology will also no longer be subject to mandatory import licensing requirements. In addition, Russia will only be able to apply import restrictions on foreign agricultural products pursuant to objective, scientific evaluations.

Liberalization of Trade in Services

Within the framework of the General Agreement on Trade in Services (GATS), Russia made specific commitments in a great number of service sectors including telecommunications, financial services, transport, express delivery and wholesale/retail distribution services. In all sectors where commitments have been made, foreign services suppliers will have guaranteed access to the Russian market on a non-discriminatory basis and will have the right to establish and acquire services companies in covered sectors.

Energy Pricing

Systemic commitments resulting from WTO membership will include Russia’s commitment to operate its natural gas and electricity markets on the basis of normal commercial considerations, with the exception of the price regulation of supplies to households and other non-commercial users.

Improved Intellectual Property Protection

The protection of intellectual property will be reinforced with the application by Russia of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). Russia also committed to continue to take action against the sale and distribution of copyright-protected products and content over the internet.

Client Alert

International Trade & Litigation Practice Group

Transparency Commitments

As part of the accession “rule book”, Russia has committed to publish all laws and regulations that affect trade in goods, services and intellectual property before they enter into force. In addition, except in emergency situations, Russia will provide a reasonable period of time (normally not less than 30 days) for comments on all measures affecting international trade under its Customs Union with Belarus and Kazakhstan.

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Ancillary benefits that will result from Russia’s WTO membership include the right of Members to challenge measures under the WTO’s dispute settlement system. Russia can use this enforcement mechanism to ensure that its trading partners follow WTO rules. Likewise, Russia may be subject to WTO dispute settlement action to obtain compliance with general WTO rules and with its accession commitments.

The Russian Federation’s WTO accession should improve business conditions and contribute to economic growth over the medium term. Although Russia may take some time to comply fully with WTO rules and accession commitments, WTO membership will help to integrate Russia with the global economy and should foster economic growth and efficiency by attracting foreign investment through the reduction of trade barriers. Finally, and perhaps most importantly, the application of WTO rules will increase the confidence of the international business community by establishing an international legal framework to enhance predictability, stability and transparency in relation to international trade and economic activity with Russia.

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King & Spalding’s specialized international trade lawyers have been working on the Russian accession since 1995 and have assisted many clients in connection with accession negotiations. Our international legal team assists clients in taking advantage of trade and investment opportunities in Russia and in connection with the implementation of Russia’s WTO commitments.

Celebrating more than 125 years of service, King & Spalding is an international law firm that represents a broad array of clients, including half of the Fortune Global 100, with 800 lawyers in 17 offices in the United States, Europe, the Middle East and Asia. The firm has handled matters in over 160 countries on six continents and is consistently recognized for the results it obtains, uncompromising commitment to quality and dedication to understanding the business and culture of its clients. More information is available at www.kslaw.com.

This alert provides a general summary of recent legal developments. It is not intended to be and should not be relied upon as legal advice.

ⁱ See Information about the Russian Federation’s WTO Commitments, http://www.wto.org/english/news_e/news11_e/acc_rus_10nov11_e.htm