RUSSIA

In 1997, the U.S. trade deficit with Russia was $1 billion, an increase of $780 million from the U.S. trade deficit of $221 million in 1996. U.S. merchandise exports to Russia were nearly $3.3 billion, a decrease of $51 million (1.5 percent) from the level of U.S. exports to Russia in 1996. Russia was the United States' thirty-fifth largest export market in 1997. U.S. imports from Russia were nearly $4.3 billion in 1997, an increase of $729 million (20.5 percent) from the level of imports in 1996.

Trade relations between the United States and Russia are governed by the U.S..-Russia Trade Agreement, signed in June 1990 with the USSR and approved by the U.S. Congress in November 1991. The USSR ceased to exist before ratification of the agreement, but the United States offered the agreement (with minor technical changes) to each of the emerging states of the former Soviet Union. Russia's parliament approved the agreement, making it possible for the United States to extend most-favored-nation status to Russia on June 17, 1992. Russia is in the process of acceding to the World Trade Organization (WTO).

IMPORT POLICIES

The combination of import duties, a 20 percent value-added tax charged on most imported goods (selected food products are assessed at 10 percent), excise taxes assessed on imported goods (especially automobiles, alcoholic beverages, and aircraft) and an import licensing regime for alcohol depress Russian demand for imports. Frequent changes in customs regulations without warning have created problems for foreign and domestic traders and investors.

The government has raised import duties several times since 1992. In mid-1995, the government rationalized its duties, establishing rates of 5 to 30 percent on most goods. In 1996, the government raised tariffs on alcoholic drinks, chicken and some other food products, and now has an average weighted tariff of 13.3 percent. Only customs duties on tea were raised in 1997.

Effective February 1, 1998, a government resolution raised the minimum customs duty slightly for many agricultural goods and for manufactured goods such as audio and video cassettes, leather goods, wall coverings, apparel and mattresses. The resolution does not change the customs duty rate itself, but adds a minimum value to be paid (in either ecu per kilogram or ecu per item). The declared intent of these combined tariffs is to prevent under-payment of tariffs through under-invoicing. The Russian Government is currently considering proposals for increased tariff protection on selected agricultural products and industrial equipment and machinery.

In October 1997, the Russian Government adopted Resolution 1347, under which tariffs on particular goods may be raised no more often than every six months and may take effect only six months after publication. Duties may not be changed more than 10 percentage points at one time.

Russia maintains high tariffs and excise taxes on imported spirits, and in 1997 instituted an extensive regulatory system for alcoholic product import and sale on the Russian market. U.S. exports of vodka consequently dropped from $4.4 million in 1996 to only $110,000 in 1997. In early 1998, the prices of alcohol licenses were raised, with annual fees for licenses to handle imported products 30 times higher than the corresponding fees for licenses for domestically-produced products. U.S. exporters have also stated that a requirement to affix a strip stamp showing that excise duty has been paid has not been applied equally to domestic producers and that excise taxation itself is sometimes not applied equally.

In March 1996, after a February announcement by the Russian Ministry of Agriculture that its veterinary service would deny import certification for many U.S. poultry processing facilities, the United States and Russia reached an agreement whereby Russia recognized the U.S. inspection system as acceptable for the Russian market. The Russian Government also withdrew a reference price system that almost doubled the actual customs value of poultry imports.

With no major disruptions to U.S. exports of meat and poultry products to Russia during 1997, exports totaled almost $900 million. Russia is the world's largest poultry importer and now represents over one-third of total U.S. exports of poultry products. However, this large volume of trade moves under a cumbersome, inefficient and mistake-prone inspection/certification system (described in next section).

In early 1997, the Ministry of Communications published a regulation entitled Order no. 8, which limits Russian purchases of foreign-made switchgear. The order is ambiguous and may have to be withdrawn in the future due to WTO obligations. Until that time, it poses a potential for significant restriction of access to the Russian market for this equipment. The order forces the 86 regional companies in the Svyazinvest group to give preference to Russian-made digital switching equipment. There is no technical reason for this requirement.

In November 1997, the Commission on Protective Trade Measures recommended establishment of a licensing regime for color television imports. The proposal is awaiting final approval by the Prime Minister.

Importers from the United States have experienced delays and unexpected costs due to individual interpretation of Russian customs codes by each port of entry.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Russia's July 1993 consumer protection law requires official certification by the State Committee for Standards (Gosstandart) of imported products for conformity to Russian technical, safety, and quality standards. Certification is based on a combination of international and Russian standards. All food items imported into Russia are subject to food quality and safety standards and require a certificate for each shipment. Manufactured items can receive certificates allowing import of a good over a three year period. Import licenses are required on the normal range of dangerous and harmful materials and goods. U.S. companies have complained of costly, nontransparent procedures and arbitrary certification requirements. Due to the many difficulties experienced by American companies in this area, the American Chamber of Commerce in Moscow has named standards and certification as one of four main obstacles to increased American trade and investment in Russia.

Russia is establishing reciprocal standardization with the United States and other countries, and acceptance of foreign certification by accredited institutions. A joint U.S.-Russia communique of December 1993 pledges cooperation on improving and simplifying certification, testing and quality assurance of U.S. and Russian products in each others' markets. A February 1994 Memorandum of Understanding between the U.S. Food and Drug Administration and the Russian Ministry of Health and Medical Industry established a framework for cooperation and exchange of information on drugs and biological products in order to speed their importation. By the end of 1997, a federal commission on WTO policy approved an action plan to bring Russia's standards, certification and conformity assessment regime into compliance with international standards. This plan is awaiting final government approval.

Certification is a particularly costly and prolonged procedure in the case of telecommunications equipment. Telecom equipment is tested for compliance with standards established by both Gosstandart and Gostelkom, and typically takes 12-18 months. No type certification or self certification by manufacturers is currently possible. U.S. companies have recently reported that Russian government security services have imposed their own requirements on producers of exchange stations for radiocellular equipment.

Requirements of the Russian Veterinary Department are sometimes of questionable scientific or food safety value, and the Veterinary Department administers the certification system in a nontransparent and arbitrary manner. As Russia looks to WTO accession, it will need to develop a more transparent, science-based and WTO-consistent food inspection system.

Similarly, Russian sanitary and phytosanitary import requirements for certain planting seeds (notably corn, soybeans and sunflower seed), and beef and beef by-products, appear to lack a scientific basis and have blocked imports from the United States. Technical level discussions to ease or eliminate burdensome Russian sanitary and phytosanitary requirements are ongoing, but have produced no results for beef and beef by-product restrictions.

In July 1997, the Russian Government announced enactment of the current food labeling law, which requires that food imported from foreign exporters have labels in the Russian language containing information on content, nutritional value, shelf life, conditions of storage, and use of the product. The new law strengthens the role of Gosstandart in managing these requirements. However, U.S. food exporters often find compliance with the regulations difficult or impossible because they are overly stringent or vague. Importers also claim that there is not as yet an inquiry point where they can receive reliable clarification of the regulations.

Gosstandart also proposed in 1997 use of a new holographic mark of conformity with Russian regulations for a few goods. In November 1997, Gosstandart announced the holographic marks would not be required on the product if the manufacturer/importer is already attaching the current mark of conformity. However, holographic marks will be required on all copies of certification documents as of July 1, 1998. Foreign businesspeople have complained that the requirement is costly and unnecessary, the rules are unclear, and that Gosstandart has not coordinated sufficiently with the Customs Service.

GOVERNMENT PROCUREMENT

The Russian Government has virtually eliminated the Soviet practice of centralized imports through state-owned foreign trading companies. Some large-scale trade deals for state needs (such as oil-for-sugar barter deals between Russia and Cuba) still take place. Typically, however, the government awards the right to implement such deals on its behalf to private or quasi-private trading houses. Russian ministries and government agencies are frequent purchasers of equipment, goods and services for their own needs or for the needs of various domestic organizations or groups (i.e., the military, regional health organizations, or population centers located in remote areas). In April 1997, the government established procedures for public tenders for some government procurement. A government procurement bill, based on competitive bidding, is also being considered in the State Duma. While domestic suppliers currently are not accorded any official advantages or privileges in competing for government procurement, the Russian Government's strong political bias toward supporting domestic industries probably works in favor of Russian suppliers. For example, in 1997 government agencies were directed to use only domestic automobiles (a program which ran into problems and is currently not strictly enforced).

EXPORT SUBSIDIES

The Russian Government's industrial policy guidelines appear to emphasize export promotion and import substitution. In practice, there has been limited budgetary funding for such projects, and the programs that do exist are designed to provide support to industries which export, rather than targeted export subsidies per se. Russia has no explicit export subsidies on agricultural products.

LACK OF INTELLECTUAL PROPERTY PROTECTION

Since 1992, the Russian Government has put into place the statutory framework needed to bring the country up to modern standards in the area of intellectual property protection, including laws on copyright and neighboring rights, trademarks, industrial designs, patents, and integrated-circuit layout designs. The U.S.-Russia Bilateral Trade Agreement also requires Russia to provide high standards of protection for intellectual property. A significant gap is the lack of protection for pre-1995 U.S. sound recordings and pre-1973 U.S. copyrighted works. Russia is a member of the Paris Convention for the Protection of Industrial Property, the Universal Copyright Convention and other major multilateral intellectual property conventions. In 1995, Russia acceded to the Berne Convention for the Protection of Literary and Artistic Works and the Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms.

Even though Russia has passed laws that generally meet modern standards, enforcement of those laws to date has been limited. There is currently extensive piracy of U.S. video cassettes, films, music, recordings, books, and computer software in Russia. Some U.S. companies have had difficulty registering well-known marks or have had an existing trademark registration invalidated. Fees for obtaining and maintaining patent protection in the country are among the highest in the world. Administrative and judicial review bodies are only beginning to become active in IPR protection. The United States will continue to monitor IPR enforcement carefully and will provide assistance to help the Russian Federation improve enforcement. The U.S.-Russia Bilateral Trade Agreement calls for a side letter on mutually acceptable provisions on patent compulsory licensing, similar to the principles included in the Treaty side letter on intellectual property. The text of a letter was agreed to in September 1997, but the Russian Government has not signed it.

SERVICES BARRIERS

Discriminatory measures against foreign providers of non-financial services are not so much the result of federal laws as abuse of power, sub-national regulations, or practices that may even violate Russian law. For example, foreign providers of services have sometimes noted discrimination in obtaining licenses from local authorities, often having to pay several times the fees paid by domestic companies.

The federal law on "Banks and Banking Activity of 1996" permits foreign banks to establish branches or subsidiaries in Russia. The law allows the Central Bank of Russia to impose a ceiling on the total amount of foreign bank capital as a percentage of the total bank capital in Russia. At present, foreign banks' share of the total capital is around 4.6 percent, well below the current 12 percent ceiling even though four foreign banks received licenses in 1997. In May 1997 the CBR announced new regulations requiring foreign banks to have a minimum of ecu 10 million (about $11.5 million) in capital and that at least 75 percent of its employees and 50 percent of its management board be of Russian nationality.

In early 1998, the Russian Government enacted insurance law amendments which will prevent foreign-licensed insurers from insuring the property of Russian companies and individuals. Foreign insurers will now be limited to re-insurance and mutual insurance for Russian companies. Foreign firms can still hold 49 percent stakes in joint ventures with Russian insurers but there are few such partnerships.

INVESTMENT BARRIERS

A Bilateral Investment Treaty (BIT) was signed between the United States and Russia in June 1992. It was approved by the U.S. Senate in October of the same year, but it will not enter into force until approved by the Russian Duma.

Foreign investors in Russia have indicated their greatest concern to be the legal system, particularly shareholders' rights and weak contract law. There are a number of cases in which court decisions or arbitral awards in favor of the Western investor have not been implemented. In addition, as foreign investors must seek approval for their projects on the federal, regional and local level, the vagueness of existing laws can lead to differing interpretations and conflicting requirements on the different levels. The Prime Minister created an interministerial commission on shareholder rights in mid-1997, in order to improve government coordination in dealing with investment disputes.

The delayed passage of a federal land code allowing purchase and sale of real property has posed problems for investors in some regions of Russia, but the government may have recently found a path to resolving this highly controversial issue. On December 26, 1997, President Yeltsin and representatives of the State Duma and Federation Council agreed that the land code will be reworked to permit the buying and selling of all land, but restrictions will be placed on ownership and usage of agricultural land. The restrictions include a prohibition of foreigners from ownership; a maximum number of hectares which can be owned by a single person or entity; and a ten year waiting period after purchase before applying to change the land's usage. The revised draft will return to the Duma for a final reading in 1998.

Economic disincentives are also a key concern of foreign investors, with particular concern about the incoherence of the tax system. Crime and corruption in commercial transactions are also an inhibiting factor; in both 1995 and 1996 the government undertook highly publicized efforts to reduce corruption in the police force.

Russia

Government policies affecting foreign investment have been mixed. In February 1994, the government began to allow foreigners to purchase up to 10 percent of each month's issue of government securities, a market previously off limits to foreigners. The central bank fully liberalized this market in 1997. Non-resident investors are estimated to hold about 30 percent of the government securities market.

While legislation related to the Production Sharing Agreement (PSA) law, which was originally passed December 31, 1995, made little progress in 1997, the GOR started 1998 by introducing two bills containing long-awaited lists of nine deposits. The list includes projects with Western and U.S. participation. The Duma has tentatively scheduled consideration of amendments to the law on production sharing, the law on amending legislation and the law on state supervision of the implementation of production sharing agreements for February 1998.

The issue of local content arose during consideration of production sharing legislation in 1997. Even PSA supporters in the Duma back local content provisions, and introduced their own amendment calling for fifty percent local content in response to an initial proposal for a seventy percent requirement. Both amendments are pending. The time frame of local content requirements, with possibilities ranging between extremely onerous year-by-year compliance to lifetime-of-project compliance, is an especially important aspect. Scope of application, i.e. whether to the entire investment or to a tightly defined list of oil and gas equipment, is also significant.

Regarding purely financial disincentives, most foreign investors list concerns about profit repatriation. Since Russia has assumed obligations under the IMF's Article VIII, there are no longer any legal barriers to profit repatriation. The last restriction, involving special accounts for hard currency transactions, was eliminated as of January 1, 1998. Investors have also expressed concern about their inability to get accurate information about potential business partners.

OTHER BARRIERS

Aircraft

Russia maintains high tariffs on imported aircraft. Although these tariffs were lowered to 30 percent in 1995, they were still at a prohibitive level.

In 1996, the United States and Russia concluded a joint MOU that addresses U.S. concerns about access to the Russian civil aircraft market and the application of international trade rules to the Russian aircraft sector. Under the MOU the Russian aircraft industry will become fully integrated into the international economy and subject to the same multilateral trade disciplines as are U.S. and most other aircraft manufacturers. The Russian Federation has confirmed that it will become a signatory to the Agreement on Trade in Civil Aircraft which, together with the other WTO agreements, establishes the basic international rules governing trade in the aircraft sector.

In the interim before the Russian Federation accepts full international trade obligations, the MOU commits it to provide fair and reasonable access for foreign aircraft to its market. The Russian Government agreed to take steps, such as the granting of tariff waivers and the reduction of tariffs, to enable their airlines to meet their needs for U.S. and other non-Russian aircraft on a non-discriminatory basis. Senior Russian officials in 1997 reaffirmed their commitment to the MOU. However, the process for granting waivers remains slow and cumbersome.

On January 8, 1998, a new Russian Federal Law on State Regulation of the Development of Aviation was signed. The law stipulates preferential treatment (tax holidays, guarantees on investment) for Russian and foreign investors in aviation-related research and manufacturing ventures. The law also sets a 25 percent limit on the share of foreign capital in aviation enterprises and requires that the senior officials and management staff be Russian citizens.