The U.S.-Russia Business Council (USRBC or Council) is pleased to offer comments on Russia's implementation of its World Trade Organization (WTO) obligations. At a time when a complex geopolitical climate has led to a cycle of sanctions and counter-sanctions that impact bilateral trade and investment, the Council is committed to continuing to serve our members’ interests in the Russian and U.S. markets to address issues that impact their businesses and to encourage greater transparency and predictability in accordance with WTO rules.

Our comments outlined below encompass a broad range of policies and include draft proposals that raise concerns about Russia's WTO compliance because we believe these are important to highlight in the current environment.

Customs and Other Import Regulations

- **Improvements.** Russia has taken some steps to improve import regulations over the past year that have reduced the number of procedures required to clear imports and shortened the time to import goods from 36 days to 21 days, as noted in the World Bank’s *Doing Business 2014* report.

- **Machinery Component Valuation.** A lack of clear regulations or administrative rulings presents a complicated situation for applied tariffs: Russian Customs officials have disputed declared import values of machinery components using reference prices that seem to be inconsistent with the invoice valuation. This tends to result in the application of a higher import value by Russian Customs officials and thus higher import tariffs.

- **New, Proposed Import Bans?** In reaction to U.S. sanctions against Russia related to the Ukraine crisis, the Russian government has floated the idea of a ban on the import of used automobiles, light industrial goods (such as refrigerators and clothing) and petrochemicals. If implemented, these “counter-sanctions” could be used to protect and support domestic manufacturers. It is not clear if a national security exemption would be applicable to such an import ban, if implemented, similar to the recent Russian ban on imported foodstuffs.

National Treatment

- **Payment Systems.** New Russian restrictions solely on foreign credit card payment processing networks could effectively require foreign processors to establish local payment centers or post prohibitively high levels of cash collateral for any fines due to service suspensions.

- **Software Fees.** A new fee/tax on software proposed recently by Minister of Communications Nikiforov to create a fund to subsidize domestic programmers requires further examination in the context of Russia's WTO obligations. Further, if levied solely against imported software, this measure would raise national treatment concerns.

- **Recycling Fee on Imported Non-Road Machinery.** Similar to a vehicle recycling fee that Russia subsequently amended, another proposal is pending in the State Duma which would apply a
recycling fee solely to imported non-road machinery/equipment. The level of the recycling fee could offset the tariff reduction on these goods secured with Russia’s WTO accession.

- **Services.** State Duma deputies have proposed legislation to prohibit audit and consulting firms from countries that have implemented sanctions against Russia (labeled “aggressor countries”) from operating in the Russian market.

### Investment Measures and Localization

- **Auto Regime.** While Russia’s WTO accession terms permit investment rules through 2018 that incentivize local production, the USRBC continues to encourage Russia to adopt policies that will help it prepare for the auto investment regime phase-out, thus opening its market to a broader range of competitors, creating increased benefits for consumers in terms of choice and pricing.

- **Personal Data Law.** The new amendments to the law “On Personal Data” require (potentially) any company operating in Russia that collects online information about Russian citizens to store and process such information on servers located in Russia. The scope of the law has raised concern among U.S. companies that operate in Russia, as those within the new law’s scope would be required to build or lease data center space or leave Russia. USRBC welcomes greater clarity from the Russian government regarding the implementing regulations for this law, particularly with respect to the intended scope of coverage.

- **Self-Propelled Machinery Certificates.** Russia has proposed legislation to change the criteria for issuance of self-propelled machinery certificates, which are necessary to allow the operation of combine harvesters in Russia. The new criteria would prohibit the issuance of a certificate to non-Russian brands that do not meet local content criteria.

### Intellectual Property Rights

- Enforcement of Russia’s legal and regulatory base for intellectual property rights protection continues to be a concern – particularly in the pharmaceutical and high-tech sectors.

### Trade Remedies

- **Customs Union Safeguard Measure on Combine Harvesters.** USRBC has flagged in the past references to the Custom Union’s questionable methodology in its safeguards investigation to reach a determination of serious injury regarding imports of combine harvesters. The resulting safeguards measure placed an import quota on combine harvesters that was calculated based on 2009 import figures, the lowest import level in the previous four years. The Customs Union did not take external factors into consideration, such as Russia’s agricultural policies, the effects of the financial crisis, drought, and unavailability of credits to agricultural manufacturers, nor did it consider the market situation and import figures prior to the economic crisis of 2008-2009. The result is an artificially low import quota regime that is set to decrease over time and could be extended beyond 2016.

### Sanitary/Phytosanitary Issues

- Russia’s sanitary and phytosanitary (SPS) service, Rospotrebnadzor, has cited “violations of product quality and safety” to force the temporary closure of a number of McDonald’s fast food restaurants across Russia, yet it is unclear what justifications the Russian government has provided for such closures in accordance with WTO SPS principles that emphasize evaluations based on sound science.
Government Procurement

While Russia has not yet acceded to the WTO’s Government Procurement Agreement, it requested and was granted observership in the WTO Committee on Government Procurement. At the time of its accession, Russia committed to initiate negotiations for membership in the WTO Agreement on Government Procurement within four years of accession.

- The USRBC encourages Russia to adopt non-discriminatory policies in procurement that allow for access to a wider range of products and services:
  - Healthcare. Non-discriminatory policies in the healthcare arena would broaden the availability of essential goods such as medical technologies and pharmaceuticals to the Russian people.
  - IT. The State Duma is to take up consideration of new legislation that would require government agencies and state-owned enterprises to give preference to domestically-produced software and hardware products in procurement.