

KEY MARKET ACCESS BARRIERS - RUSSIAN FEDERATION - MARKET ACCESS PARTNERSHIP

Barrier	Description	Planned action
<p>1. Restrictions to purchases by State-Owned Enterprises of foreign goods and services</p> <p>Barrier ID: 12080</p>	<p>Russia has introduced restrictions to the purchase by Russian State-Owned Enterprises (SOEs) of foreign goods and services, via several measures adopted between 2015 and 2019.</p> <p>The issue concerns purchases by Russian SOEs, or even by entirely private entities (<i>for "investment projects"</i>), when acting with a commercial purpose (<i>e.g. export activities of Gazprom, Aeroflot, national banks, etc.</i>), i.e. outside of the area of purchases for governmental purposes.</p> <p>These restrictions have been progressively put in place through the following measures:</p> <ol style="list-style-type: none"> 1. Restrictions for importing/foreign companies to supply SOEs or private companies running investment projects above RUB 10 bln (EUR 140 mln) – private companies provided that the State subsidises at least 10% of the project. This is in place since 2016. Among the restrictions listed: need to notify the project to a registry, need to receive the approval of an "import substitution commission", list of goods that cannot be bought abroad etc. 2. 15% price preference: Russia adopted Decree 925 on 16 September 2016 allocating a price preference of 15% to domestic/Russian companies in the framework of SOEs' purchases. That means that importing companies (for goods) or foreign companies (for services) compete with domestic/Russian companies which are granted an advantage of 15% when comparing the prices of the respective bids. However when the 	<p>-Raise at the WTO TRIMs Committee, at the WTO Council on Trade in Goods as appropriate, and bilaterally – notably in the context of the ongoing reform of the Russian legal framework for public procurement</p> <p>-Consider WTO Dispute Settlement case.</p>

	<p>domestic/Russian company is selected, it is paid the normal price as announced in the bids.</p> <ol style="list-style-type: none"> 3. Law 496 of 31.12.2017 allows the government to introduce local content requirements on aircraft and ships purchased by SOEs 4. Law 44/2013 FZ on Government Procurement was amended by Law 174-FZ of 29 June 2018. It would seem that, as a consequence of the amendment, Law 44/2013 FZ would apply to investments made by SOEs where these make fixed capital investments using state subsidies – <i>including SOEs which are not 100% state-owned and which are normally required to follow Law 223/2011 to their procurement.</i> 5. The Decree N 878 from 10.07.2019 introduced amendments to the Decree N 925 extending a 30% price preference to 13 categories of radio-electronic products of Russia's origin. The Decree N 925 is applied to purchases made by SOEs. <p>These measures are continuously evolving. On 4 June the Russian Government approved a bill which, if adopted, would introduce fixed quotas on purchases of foreign products by governmental entities and by SOEs (under, respectively, Federal Laws 44 and 223).</p>	
<p>2 – Unique labelling and traceability requirements</p> <p>Barrier ID: 11640</p>	<p>Russia has adopted a measure (Decision 792-p of April 2018), requiring electronic marking of different categories of products (fur products, tobacco, footwear, pharmaceuticals, textiles and clothing, perfume, tyres, cameras), applicable in accordance with a calendar spanning between 2019 and 2022. Each individual piece receives a unique code, which has to be registered in customs and at every step of the logistic</p>	<p>-Raise at the WTO Committee on Technical Barriers to Trade, and bilaterally</p>

	<p>chain in order to ensure traceability, with stated aims of fighting counterfeit and fraud.</p> <p>The measure raises issues inter alia of proportionality, clarity and appropriate notification and transition in accordance with WTO TBT rules.</p> <p>Some deadlines have been postponed to 2021. The current timeline communicated by Russia for entry into force is:</p> <ul style="list-style-type: none"> - for shoes 1 July 2020. - for pharmaceuticals 1 July 2020. - for cameras 1 October 2020. - for tyres 1 November 2020. - for textiles 1 January 2021. - for perfumes 1st of October 2020. - dairy products from 20 January 2021 and 1 October 2021. 	
<p>3- Sanitary and Phytosanitary (SPS) measures: Numerous blanket bans, non-transparent control and approval procedures</p>	<p>Numerous EU-wide or Member State-wide blanket bans under the guise of SPS measures were introduced mainly between 2012 and 2014. The most important of SPS-related EU-wide bans include that on pigs and pig products since January 2014 (<i>WTO DS 475, see note below</i>), the one on potatoes & nursery plants since July 2013.</p> <p>Examples of SPS bans affecting individual Member States include that on fruit and vegetables from Poland since August 2014, , and the ban on all fishery products from Latvia and Estonia since June 2015.</p> <p>Some of the long-standing Russian SPS bans were lifted during 2017-19, however, the resumption of exports has not been possible either due</p>	<p>-Raise at the WTO SPS Committee, as appropriate at the WTO Council on Trade in Goods, and bilaterally</p> <p>-Follow up the on-going WTO Dispute Settlement case as appropriate</p>

<p>(Barrier IDs: 13002 13023 10560 10540)</p>	<p>to the political ban of 2014, or hampered/prevented by additional SPS conditions (<i>lifted ban on live cattle, pigs, sheep and goats</i>).</p> <p>The above blanket bans came on top of the already difficult situation with Russia's non-transparent, discriminatory and disproportionate SPS control and approval procedures and the excessively stringent requirements, often insufficiently aligned with the WTO SPS Agreement and other international standards and practices.</p> <p>Despite the fact that during its WTO pre-accession negotiations Russia ensured that the Customs Union (<i>now Eurasian Economic Union</i>) SPS technical regulations adopted were more aligned with the international standards and practices, most of the improvements seem not to be implemented in practice. The same applies to a number of commitments on SPS issues included in the Working Party report for the accession of Russia to the WTO.</p> <p>New Eurasian Economic Union phytosanitary certification requirements¹ that entered into force in 2017 add further obstacles to the export of certain products from the EU. Stringent requirements for places of production are introduced for many products while the respect of the principle of non-discrimination against imports needs to be clarified.</p> <p>A Decree adopted by Russia in 2018 requires pre-clearance inspections and on the spot sampling by Russian inspectors for all exports of material for sowing and planting. The burdensome and trade restrictive requirement is disproportionate and ignores the international practice of accepting guarantees by the authorities of the exporting countries and</p>	
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¹ According to Unified Requirements approved by the Decision of the Council of the Eurasian Economic Commission of 30.11.2016 No. 157

	<p>favouring the auditing and approval of systems instead to consignments of products. Discussion, ongoing for less trade restrictive alternatives.</p> <p><u>Note on DS 475:</u></p> <p>Besides all the above mentioned SPS measures most EU agri-food products, including meat, dairy, fruit and vegetables, are also covered by Russian political embargo since August 2014, which is not SPS-related. On 25 October 2017 Russia extended the scope of the political embargo to cover all pigs and pig products affected by the SPS ban successfully challenged by the EU at the WTO in DS 475. By this Russia ensured that when, on 6 December 2017 the SPS measure found to be WTO inconsistent was lifted, those products remained subject to a ban, this time under the political embargo. WTO consultations on Russia's compliance were held in Geneva on 28 February 2018. As no solution was found, the EU requested a compliance panel in October 2018 to assess Russia's compliance with the recommendations and rulings of the Appellate Body and the panel in 2017. The panel was composed in December 2018. The work of the panel is now suspended.</p>	
<p>4 - Barriers affecting healthcare goods</p> <p>Barrier ID: 11980 <i>(GMP certificate requirement for</i></p>	<p>A significant number of barriers affect trade in health goods:</p> <p>For medicinal products, barriers notably include:</p> <ul style="list-style-type: none"> - regulatory barriers which put at disadvantage foreign products, in particular GMP certification (Resolution 1314 "On determining compliance of medicinal products' manufacturers with the requirements of Good Manufacturing Practice") - insufficient protection of intellectual property rights, notably vis-à-vis patents and regulatory data protection 	<p>-Raise at WTO committees</p> <p>-Raise bilaterally, notably to invite Russia to apply for membership in the Pharmaceutical Inspection Co-operation Scheme (PIC/S),and in the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use ('ICH').</p> <p>-Engage with the Eurasian Economic Commission with a view to a transition towards</p>

<p><i>pharmaceutical products)</i></p> <p>11273 <i>(Regulatory Data Protection)</i></p> <p>11268 <i>(IPR protection)</i></p>	<ul style="list-style-type: none"> - unique labelling and traceability requirements² - specific rules for the public procurement which put at disadvantage or exclude foreign products³ <p>Medical devices are subject to similar barriers in the area of public procurement. In the regulatory area, a significant concern is the planned expiration of national certificates following the EAEU new system of Quality Management System audit and registration.</p> <p>The EAEU has put in place regulation intending to put in place a EAEU single market of both medicinal products and medical devices. Transition towards the EAEU system is currently on-going.</p>	<p>rules and regulatory practices closer to international practices</p> <p>- Discuss the issues as appropriate within the context of a EU-Russia conference on healthcare, to take place in Moscow in 2020, organised by the EU Delegation in Moscow</p> <p>*for issues of public procurement or of unique identification, actions are listed under key barriers 9 and 2</p>
<p>5- Rules affecting alcoholic beverages</p> <p>EAEU Technical Regulation on alcoholic product safety</p> <p>Barrier ID: 15822</p>	<p>The EAEU technical regulation on the safety of alcoholic products is to enter into force on 9th January 2021, with a transition period of several years. It presents a number of issues for EU producers exporting to Russia, notably: deviations from internationally accepted definitions, standards and practices; conformity assessment and labelling issues; use of certain EU protected designations of origin and geographical indications as product categories.</p>	<p>Raise at the WTO TBT Committee.</p> <p>Engage with the Eurasian Economic Commission in order to seek an alignment of the EAEU TR with international and EU rules practices.</p>

² See also key barrier 2

³ See also key barrier 9

<p>Federal Law № 468 of 27.12.2019 on wine making and wine growing in the Russian Federation'</p> <p>Barrier ID: 15702</p>	<p>Adopted by the State Duma on December 18, 2019. While the draft law was originally related to Russian winemakers only, the final version also affects imported products. It contains several provisions which amount to severe obstacles for the importation of EU wine and wine-based products to Russia. It also introduces some definitions that are very problematic for EU geographical indications.</p> <p>The law is to enter into force on 26th June 2020 without a transition period. It has not been notified to the WTO, in particular in accordance with the TBT Agreement. Given that all EU wine products will need to be reconditioned to comply with new provisions, it does not seem possible to meet this deadline.</p>	<p>Raise at the WTO TBT Committee, at the TRIPS Committee and at the WTO Council on Trade in Goods as appropriate.</p> <p>Raise bilaterally <i>[in the short term seeking a postponement]</i></p>
<p>6. Transit restrictions</p> <p>Barrier ID: 12141</p>	<p>Since 2014 several kinds of restrictions to transit via Russia have been introduced. Replies of the Russian authorities to EU requests for clarification have varied substantially in their representation of the factual situation and the transit regime (<i>from transit prohibition of products under a Russian embargo to different kinds of restrictions to transit, depending on which ministry/body was replying to EU contacts</i>). The transit problems are of at least three sorts:</p> <ol style="list-style-type: none"> 1. <u>Transit restrictions due to the political ban</u>: Since the political ban of August 2014 on agricultural goods from the EU, transit of the same goods to Central Asia and China is restricted/prohibited (situation not clear). Certain EU exports cannot transit anymore through Russia while transit remains possible in certain cases. Russian official responses are inconstant and situation on the ground unpredictable. 2. <u>Transit restrictions related to Russia's import SPS ban of fishery products from LV and EE</u>. Russia has practically banned fishery products from LV and EE for SPS reasons since June 2015. Transit of 	<p>-[Raise bilaterally as appropriate, in particular regarding an]</p> <p>Monitor implementation of Presidential Order 290 which actually makes possible and cost-effective transit via Russia.</p>

	<p>these products from LV and EE to Central Asia through Russia has also been prohibited since then.</p> <p>3. <u>Transit restrictions from Ukraine to Central Asia via Russia redirected via Belarus.</u> Russia introduced these restrictions since 1 January 2016. This measure belongs to the group of sanctions that Russia decided to apply before the trilateral talks on the Ukraine DCFTA ended.</p> <p>4. <u>Resolution 1716-83 of 29.12.2018,</u> introduces a ban on the import into the Russian Federation of a list of goods, both <i>agricultural (e.g. wheat, sunflower oil, chocolate, alcoholic products)</i> and <i>industrial (e.g. wallpaper, furniture, boilers, electrical machinery, tractors)</i>, which are either originating from Ukraine, or which transit through Ukraine. This also affects EU goods. The same measure explicitly allows transit of the same products through Russia, subject to appropriate traceability measures (<i>including seals, Glonass positioning</i>)</p> <p>In June 2019, Presidential Order 290 was issued permitting transit of sanctioned goods, and goods from Ukraine or travelling via Ukraine, via Russia, provided that cargo is accompanied by track& trace devices, i.e. electronic seals. In Government Resolution 877 of 27 December implementing details were provided. Although Order 290 entered into force as of 1 July 2019 actual implementation only started in March 2020. Written assurances were received from the Russian Government on 5.6.2020.</p>	
<p>7 - Barriers affecting the ICT sector</p>	<p>A number of barriers affect trade in digital goods and services, notably the following:</p>	<p>-Raise at WTO committees and bilaterally, notably issues of discrimination of foreign products and services</p>

	<ul style="list-style-type: none"> - In addition to measures in the area of public procurement mandating primarily the use of Russian software and hardware, other measures have been adopted targeting software and hardware used by SOEs - <i>a directive in this sense was signed in December 2018 by the First Deputy PM</i> - Moreover, the obligation to use local software from 2021 and hardware from 2022 has been announced for companies using systems considered to be part of the Russian Critical Information Infrastructure, which is broadly defined and includes sectors such as telecommunication, energy, transport, banking, education, healthcare or science - The recent amendment to the Federal Law N425 “on protecting consumer rights” which makes mandatory the pre-installation of Russian software in a number of consumer electronic devices <p>Orientations of the Russian Government in the area of 5G networks, e-mobility or data protection also risk creating barriers to trade.</p>	<p>-Engage with Russia, and where appropriate with the Eurasian Economic Commission, with a view to orient it towards rules and regulatory practices closer to international and EU rules and practices</p> <p><i>*for issues of public procurement actions are listed under key barrier 9</i></p>
<p>8. Certificate requirement for cement exports to Russia</p> <p>Barrier ID: 10941</p>	<p>Since March 2016, EU exports of cement to Russia (<i>except white cement, which is not produced in Russia</i>) have stopped due to the introduction by Russia of certification requirement. First, companies producing cement in the EU and exporting to Russia do not receive the necessary certificates. Second, even if some EU companies were able to obtain such certificates for limited periods of time, those companies were unable to export to Russia as the cargos were stopped at the border for different reasons, including mandatory testing at the border.</p>	<p>-Raise at the WTO TBT Committee, at the WTO Council on Trade in Goods as appropriate, and bilaterally</p>

<p>9. Restrictions to government procurement</p> <p>Barrier ID: 11271</p>	<p>Since July 2014 Russia has introduced restrictions for foreign companies to participate in government procurements in the following sectors:</p> <ul style="list-style-type: none"> • Medical devices – Gov. Decree N102 of 05.02. 2015 'On limiting access of some kinds of medical devices from foreign countries to public procurement' • Pharmaceuticals – Gov. Decree N 1289 from 30 November 2015 introduces certain restrictions on public procurement of imported pharmaceuticals included in the list of crucially important pharmaceuticals • Software – Government Decree No 188 FZ of 29 June 2015 'On software and the procurement activities of government bodies' • Foodstuff – RU adopted Decree number 832 of 22 August 2016. "On restrictions of admission of certain types of food products originating from foreign countries for the purposes of procurement for state and municipal needs". • Radio-electronic products - Government Decree N° 968 introducing restrictions on the public procurement purchases of more than 100 types of radio-electronic products (computers, printers, scanners, telephones, TVs, radios, antennas, loud speakers, ATMs, cash terminals, electric bulbs, etc). Scope extended with Decree n.804 of 6 July 2017 adding equipment for the GLONASS air navigation 6 system and electronic signalling devices for traffic safety. <p>On 30 April 2020 the government adopted Decree N 616 which introduced a new system for banning foreign products from the system of public procurement (purchases made under the Law 44-FZ). The</p>	<p>-Raise bilaterally, notably vis-à-vis Russian public bodies supportive of competition in the area of public procurement</p> <p>-Negotiation of Russia’s accession to the WTO Government Procurement Agreement</p>
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	<p>Decree replaces a number of previous decrees regarding the ban on public procurement purchases of foreign products (namely the Decrees N 791, 1072, 239, 656).</p> <ul style="list-style-type: none"> - The list of products introduced in Decree N 616 in some cases duplicates the lists from previous decrees (e.g. textile, footwear, vehicles, machinery and equipment). With regard to public procurement purchases of machinery and equipment originating in third countries the Decree N 616 significantly expands the list of products subject to the ban. <p>Decree N 617 from 30.04.2020 introduced an application of the rule “third is out” with regard to public procurement purchases (purchases made under the Law 44-FZ) of certain products:</p> <ul style="list-style-type: none"> - The rule “third is out” implies that a foreign product cannot be purchased if there are at least two bids offering to supply the product originating in Russia or any other country of the Eurasian Economic Union. The list of products subject to the rule “third is out” in the Decree N 617 includes 174 positions. The list includes such products as paper notebooks, office stationery, detergents, cement, musical instruments (22 positions), sports equipment, sports firearms, some types of machinery, medical furniture, chemicals, fertilizers, soap, doors, cranes, elevators, tyres. - The restriction is applied not only to the products in the list, but also on purchases of services and work if they involve the supply of foreign products included in the list. It is also prohibited to buy in one lot products not covered by the restriction and products included in the list. <p>Russia tabled a GPA offer in June 2017. The level of ambition of this offer was very low.</p>	
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