CHAPTER 25

RUSSIAN TRADE AND FOREIGN DIRECT INVESTMENT POLICY AT THE CROSSROADS

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On November 10, 2011, the World Trade Organization (WTO) announced that the Russian Federation would be invited to join the WTO at the ministerial meetings on December 15–17, 2011. The Russian Federation will have until June 15, 2012, to ratify its accession package. The Russian Federation and Montenegro will become the 154th and 155th members of the WTO after their legislatures adopt the accession agreement.

Trade among the WTO members represented 97 percent of the world's trade turnover, including over 94 percent of foodstuffs. Russia has been the largest economy outside the WTO and—along with Azerbaijan, Belarus, Kazakhstan, Tajikistan, and Uzbekistan of the Commonwealth of Independent States (CIS)—was among the twenty-nine countries that were attempting to accede to the WTO in 2011.

The Russian accession negotiations were the longest in the history of the WTO. The Working Party on Accession of the Russian Federation to the WTO was established June 16, 1993. The Working Party comprised about sixty countries and was the largest such working party in the history of the WTO.

During the first administration of President Vladimir Putin, Russia actively sought membership in the WTO, and this was seen as part of a strategy of an open-economy model of economic development. As we discuss, however, in recent years, in its efforts to diversify the economy away from energy and raw material dependence, Russia has employed several industrial policy and import-substitution industrialization measures. We discuss why we believe Russia's trade and foreign direct investment policies for the future are at a critical crossroads.

We summarize the estimates of what Russia will get from WTO accession and why. Accession is a long process—as mentioned, Russia has been negotiating its accession since 1993.1 Prior to accession, the Russian Duma had already passed into law about forty-two significant packages of legislation to conform to WTO requirements,² and it will implement selected other commitments on an agreed schedule up to at least eight years after its actual accession. The studies mentioned herein quantitatively estimate the collective impact of all these commitments taken during the accession process. These studies estimate that Russia will gain about US\$53 billion per year in the medium term (3.3 percent of 2008 gross domestic product [GDP]) and US\$132 billion per year in the long term (11 percent of 2008 GDP), due largely to its own commitments to reform in the business services sectors. We summarize the principal Russian reform commitments at the WTO and compare those commitments to those of other acceding countries. We find that the demands on Russia are comparable to other transition countries. We discuss prospects for the Russia-Belarus-Kazakhstan customs union. We explain why Russian WTO accession will result in the elimination of the Jackson-Vanik amendment against Russia. We discuss Russian policies to attract foreign direct investment. Then we argue that uniform tariffs would yield substantial benefits for Russia, but preshipment inspection would yield marginal benefits at best. In the concluding sections we argue that WTO accession is crucial to Russia. The key point is that due to pressure from the international community, WTO accession represents a unique historical opportunity to overcome the usual domestic political economy forces that lead to excessive protection. On the other hand, the economic gains to the international community from Russian accession will likely be small. Finally, what is required for diversification is institutional reform to improve the business climate, especially for small and medium enterprises.

ESTIMATES OF WTO ACCESSION IMPACTS ON RUSSIA

WTO accession is a process that may be used as an important tool for economic development. It will affect a wide range of policies and institutions, including tariff policy, customs administration, standards, rights of foreign investors (especially in services), agricultural policy, intellectual property, and possibly government procurement. It therefore represents a time for evaluation of a very wide range of regulation and an opportunity to implement important trade, foreign direct investment, and institutional changes.

As mentioned, Russia has passed about forty-two packages of legislation to conform to WTO requirements. In many cases, Russia has implemented changes prior to accession to adapt to post-WTO requirements; in other cases, the commitments may be implemented only several years after accession due to a negotiated adjustment period.

These cumulative changes will move the economy toward an open trade and investment model of economic development and away from an import-substitution industrialization economic model.

The Ministry of Economic Development and Trade of the Russian Federation requested that the World Bank undertake studies to assess the consequences of WTO accession in Russia. This has led to several studies of the likely impacts. Jensen, Rutherford, and Tarr (2007) estimated that in the medium term, Russia should gain about 3.3 percent per year of Russian GDP (or about \$53 billion a year based on 2008 GDP at market exchange rates). In the long run, when the positive impact on the investment climate is incorporated, the gains should increase to about 11 percent per year of Russian GDP (or about \$177 billion per year at market exchange rates). Based on the econometric estimates of the gains from an open economy trade regime, these estimated gains are very plausible.

Rutherford and Tarr (2008) examined household and poverty effects and found that virtually all households should gain from WTO accession. They find that skilled labor and urban households gain relatively more than average due to the increase in foreign direct investment (FDI) in the skill-intensive business services sectors. Rich households should gain less than the average household, because increased competition from foreign investment results in capital gaining less than labor does. The poorest households are estimated to gain at about the level of the average household.

Given the vast geographic diversity of Russia, Rutherford and Tarr (2010a) estimated how effects of WTO accession would vary across the regions of Russia in a ten-region model. They estimate that all regions should gain substantially, but the ones that will gain the most are those that are most successful at attracting foreign direct investment and creating a good investment climate.⁵

Responding to a request from the Ministry of Communications, Jensen, Rutherford, and Tarr (2006) examined the effects of WTO accession on Russia's telecommunications sector. They find that skilled workers in the telecom sector will gain substantially. Russian firms that become part of joint ventures with foreign investors will likely preserve or increase the value of their investments; Russian capital owners in the telecom sector who remain wholly independent of multinational firms will likely see the value of their investments decline. Households dependent on income from these types of firms may lose from WTO accession. Rutherford and Tarr (2008) estimate a similar distribution of the gains in the other business services sectors.

In summary, these studies indicate that Russia will reap substantial gains from WTO accession, the benefits are widespread and will reduce poverty, those regions that establish a better investment climate will reap greater gains from WTO accession, and crucially, most of the gains are due to Russia's commitments to implement its own reforms. The commitments to reforms in the services sectors are the most important of Russia's own reforms that produce the gains.

We do not find that WTO accession will contribute positively to the diversification objective of the Russian government. The sectors they estimate to expand the most are nonferrous metals, ferrous metals, and chemicals. while light industry, food processing,

and construction materials are likely to contract. In the concluding section, we discuss how the diversification objective can be most effectively achieved.

The estimates suggest that less than 10 percent of the gains come from improved market access for Russian exporters. After all, Russia has negotiated most favored nation status or better with all its significant trading partners. Although Russian exporters will be accorded additional legal benefits in antidumping cases once Russia is a WTO member, and this is the source of the estimated gains, many economists are cynical regarding the fairness of antidumping proceedings. This suggests that we should not expect very significant differences in determinations against Russian exporters in antidumping cases, and consequently improved market access in export markets cannot be the source of significant gains to Russia from WTO accession.⁶

Given that the benefits to Russia of WTO accession come from its internal reforms, some infer from this fact that Russia will gain little from accession—because the country could unilaterally implement these reforms. There are several reasons that we take the opposite view—that the process of WTO accession is a unique historical opportunity to achieve reform.

The key reason that WTO accession is important is the political economy dimension. Given the concentrated benefits to industries that achieve protection, industry groups will typically lobby for protection. On the other hand, since the benefits to consumers are diverse and less concentrated, they typically do not lobby against protection but hope others with similar interests will lobby on their behalf. This so-called free-rider problem in political decision making results in an absence of representation of the views of the consumer and broader economic interests in political discussions of tariffs. Lobbying and political economy considerations often allow special interests to strongly influence policy so that reforms are slow. WTO accession, however, requires across-the-board reform in many sectors, and the pressure of a WTO negotiation engages policy makers at the highest levels of government. Experience has shown that high-level policy makers, who have economy-wide interests in mind, will often intervene to impose reform on slow-moving ministries. In the case of Russia, the process began to move when Putin made WTO accession a priority in his first presidential term.

We explain next that it is difficult to argue that Russia would have made reforms as widespread and as deep as it has without the external pressure of WTO accession. Reforms are accomplished in the context of accession that would not normally be achieved so quickly. That is, WTO bindings and external pressure make it easier for a government to adopt a trade policy designed to promote growth and poverty reduction. Moreover, unlike unilateral reforms, once a country commits to a reform at the WTO, it is bound by an international commitment that is difficult to reverse in the future by a less reform-minded government. The process of negotiating bilateral market access with the countries on its WTO Working Party on Accession has led to a dramatic increase in reforms regarding the Russian trade and foreign investment regimes, and thereby has helped Russia move toward an open-economy model of economic development.

RUSSIAN COMMITMENTS TO FOREIGN EXPORTERS AND INVESTORS

Tariff Commitments

According to the WTO,⁷ Russia agreed to reduce its bound most favored nation (MFN) tariffs to about 7.8 percent on average. The calculations of Shepotylo and Tarr (2008) show that for 2005, Russia's MFN tariffs were about 12.1 percent on a simple average basis or 14 percent on a trade-weighted basis, where we have taken into account the ad valorem equivalents of Russia's specific tariffs. Thus, an average Russian tariff to 7.8 percent implies a decline of about 50 percent on average.⁸

Services Commitments

The business services sectors have been the subject of some of the most intense negotiations associated with Russian accession. Russia has made numerous commitments in this area. Some of the key concessions are the following. Russia has agreed to increase the quota on the maximum share that foreign banks and insurance companies can attain from 15 percent to 50 percent, and the country will phase out the prohibition on foreign participation in mandatory insurance lines. Russia reportedly agreed to terminate the Rostelecom monopoly on long-distance fixed-line telephone services as part of the Russia–EU bilateral agreement. (There are multinational telephone operators already operating in the Russian mobile phone market.) Russia will ensure national treatment and market access for a wide variety of professions, including lawyers, accountants, architects, engineers, marketing specialists, and health care professionals. Foreign-owned companies will be permitted to engage in wholesale and retail trade, franchise sectors, and express courier services (see Tarr 2007 for details). The European Union has negotiated intensely for the rights of companies other than Gazprom to construct a gas pipeline; no success in this area has been reported.

In banking, opposition galvanized around the branch banking issue. Russia was willing to allow subsidiaries of international banks. Subsidiaries must be registered as Russian entities, and the capital requirements would be based on capital in the Russian entity. Branches, however, do not have a separate legal status or capital apart from their foreign parent bank. In general, entry into banking services in a country is easier when branches are permitted, and the U.S. Treasury has been attempting to ensure that branch banking is permitted in all countries admitted to the WTO. The Russian central bank maintained that it could not regulate or supervise branches adequately and that depositors would therefore be at risk.

Banking interests in Russia succeeded in getting Putin himself to say that branch banking was a deal breaker for Russian WTO accession. Based on its bilateral agreement

with the United States, Russia succeeded in avoiding a commitment on branch banking, becoming the only non-least developed acceding country to avoid such a commitment. Like many items in accession negotiations, succeeding in avoiding a commitment is a Pyrrhic victory because Russia will lose the benefits from greater FDI. Nonetheless, multinational banks, operating as subsidiaries, have greater market access and national treatment rights under the bilateral U.S.–Russia agreement, and Russia should benefit from greater involvement of multinational banks over time.

Agriculture Issues

Agricultural issues were among the most contentious in Russia's WTO accession negotiations. One of the most fought-over aspects was that Russia sought a high permitted aggregate measure of support in agriculture relative to what other accession countries had negotiated. The WTO classifies subsidies into trade-distorting subsidies (Amber Box) and non-trade-distorting subsidies (Green Box).¹⁰

Green Box Subsidies: Unconstrained

The WTO allows without constraint an extensive list of subsidies in agriculture that are $not \, considered \, trade-distorting -- the \, so-called \, Green \, Box \, subsidies. \, Green \, Box \, subsidies \, considered \, trade-distorting -- the \, so-called \, Green \, Box \, subsidies \, considered \, trade-distorting -- the \, so-called \, Green \, Box \, subsidies \, considered \, trade-distorting -- the \, so-called \, Green \, Box \, subsidies \, considered \, trade-distorting -- the \, so-called \, Green \, Box \, subsidies \, considered \, trade-distorting -- the \, so-called \, Green \, Box \, subsidies \, considered \, trade-distorting -- the \, so-called \, Green \, Box \, subsidies \, considered \, trade-distorting -- the \, so-called \, Green \, Box \, subsidies \, considered \, cons$ include a wide range of publicly funded measures, including research and development, pest control, general and specialist training, extension and advisory services, inspection services for health and sanitary reasons, marketing and promotion services, infrastructure services (including electricity, roads, and environmental expenditures), targeted support to low-income population through food stamps or subsidized prices, direct payments to producers to support income provided it has minimal trade-distorting features, crop insurance subsidies for natural disasters, adjustment assistance through producer retirement programs, and indirect income support not related to prices. The worldwide trend is to move agricultural support away from trade-distorting subsidies toward Green Box measures. In part, this is because it is generally recognized that trade-distorting subsidies are a highly inefficient way of helping agricultural producers compared with Green Box measures. Green Box measures, which focus on research and development and agricultural services to improve productivity, are more effective at creating a competitive agricultural sector in the long run.

Amber Box Subsidies and the Constrained Aggregate Measure of Support

Trade-distorting subsidies are constrained and measured by the aggregate measure of support. During the final years of negotiations, Russia's objective was to be permitted \$9 billion in trade-distorting subsidies. This amount exceeded the precedent among acceding countries because the precedent has been that the three-year period prior to accession forms the base period for permitted trade-distorting subsidies, and trade-distorting subsidies are negotiated down from that base.¹¹

Russia succeeded in obtaining the right to use trade-distorting subsidies of \$9 billion in 2012, but this amount will have to decline to a maximum of \$4.4 billion by 2018. Furthermore, Russia agreed to completely forgo the use of export subsidies in agriculture. Russian government support for agriculture in 2008 was \$6.5 billion. Thus, Russia should not be constrained to reducing agricultural support or the form of it in 2012 relative to 2008 levels of support. Regarding the more binding constraints of 2018, a significant share of existing support is Green Box support. Provided not more than \$4.4 billion of the \$6.5 billion in agricultural support has been trade-distorting Amber Box subsidies, Russia will be permitted to maintain its trade-distorting subsidies at the 2008 level. In any event, it will be permitted to increase subsidies to agriculture on an unlimited basis to the extent that the support is in the non-trade-distorting Green Box category.

Sanitary and Phytosanitary Conditions

Russia made considerable commitments in market access as well as sanitary and phytosanitary negotiations. For beef, pork, and poultry exports, the disputes with the United States were among the most significant. Under its bilateral market access agreement with the United States, however, Russia has made substantial concessions.

For poultry and pork products, instead of joint inspection of facilities, Russia agreed to allow the U.S. Department of Agriculture Food Safety and Inspection Service to inspect and certify new facilities or facilities that need to remedy a deficiency. Regarding beef, Russia and the United States agreed to timely joint inspections of all facilities that will export to Russia. Once a joint inspection has been completed, the inspection process applying to poultry and pork exporters will apply. Additional significant commitments were made to the United States regarding risk mitigation for trichinae in pork and in modern biotechnology products.

Are There Excessive Demands on Russia Due to Political Considerations?

The allegation that demands on Russia were either political or excessive by the standards of other countries that have acceded to the WTO have been repeated frequently and have been come to be believed by many observers. We believe, however, that the evidence contradicts this allegation. Aside from a couple of well-publicized cases where unusual demands were placed on Russia, 12 the demands are typical of the WTO accession process in the past ten years. One could argue that the accession process itself is very stringent for required commitments by comparison to members of the General Agreement on Tariffs and Trade who become members of the WTO without an accession process. The process of acceding to the WTO since 1998 is a difficult one in which all acceding countries have been asked to take on very significant commitments to foreign exporters

and investors. In comparison with the commitments of these countries, those reported for Russia do not appear excessive.

Goods

In goods, Russia has agreed to bind its tariffs at an average tariff level of 7.8 percent, after an adjustment period (U.S. Trade Representative 2006). This is a slightly higher average bound tariff on goods than most countries that have acceded to the WTO since 1998 (see WTO 2005). The average tariffs for other acceding countries are: Saudi Arabia, 10.5 percent; Former Yugoslavian Republic of Macedonia, 6.2 percent; Armenia, 7.5 percent; Chinese Taipei, 4.8 percent; China, 9.1 percent; Moldova, 6.0 percent; Croatia, 5.5 percent; Oman, 11.6 percent; Ukraine, 6.0 percent; Albania, 6.6 percent; Georgia, 6.5 percent; Jordan, 15.2 percent; Estonia, 7.3 percent; Latvia, 9.4 percent; and Kyrgyz Republic, 6.7 percent. Thus, by the standards of countries that have acceded to the WTO in the last eight years that are not least developed countries, Russia appears to have concluded market access negotiations with bound tariffs slightly higher than average, especially in comparison to the other transition countries, that is, there were no excessive demands from the Working Party.

Services

In the area of services, no simple measure like an average tariff is available. An examination of the table of commitments of the countries that have acceded to the WTO since 1998 (WTO 2005, 5) shows that all of them have assumed a rather high and comprehensive level of commitments in terms of sectors included. On a qualitative basis, more detailed analysis of banking and insurance (Tarr 2007) does not suggest an above average level of commitments in these important sectors. On the contrary, Russia has been able to avoid a commitment to branches of banks, unlike almost all of these other countries.

Agriculture

Incumbent members of the WTO, like the European Union, Canada, the United States, and Norway, have a base period for trade-distorting agricultural subsidies that allows for substantial trade-distorting subsidies. The precedent among acceding countries, however, is that the three-year period prior to accession forms the base period for permitted trade-distorting subsidies, and these subsidies are negotiated down from that base. Russia failed in the bilateral discussions to achieve its objective of defining 1992–94 as the base period for trade-distorting agricultural subsidies. As already mentioned, the nation did obtain its objective of \$9 billion in trade-distorting subsidies on a transition basis; this value exceeded the trade-distorting subsidies of earlier acceding countries.

In comparison to incumbent WTO members, the restraints on Russia are stringent, but they are not unusual for accession countries.

THE CUSTOMS UNION: WHAT DOES IT MEAN FOR RUSSIA'S TRADE POLICY IN THE FUTURE?

Russia formed a customs union with Kazakhstan and Belarus on January 1, 2010. As with earlier agreements on the Eurasian Economic Community (EURASEC), questions remain regarding whether the common external tariff will be implemented outside of Russia. As explained in detail in Michalopoulos and Tarr (1997a, 1997b), in EURASEC the tariff was the Russian tariff that protected Russian industry and made the other countries pay higher prices for these goods compared with cheaper third-country imports. Thus, implementation of the common external tariff outside of Russia was reportedly only between 50 and 60 percent of the tariff lines, depending on the country.

Although the common external tariff has already been established, in the current customs union, a formal supranational tariff-setting authority began operating in January 2010. As in EURASEC, the initial tariff structure is the Russian tariff one, which is heavily biased in favor of protecting Russian producers, that is, the partner countries bear the bulk of the trade diversion costs. Thus, unless Belarus and Kazakhstan receive benefits from the customs union elsewhere that convince them the union is in their best interest, there is reason to believe that over time, we may see a lack of implementation of the common external tariff in the partner countries.

Although negotiation of a common external tariff is a notoriously difficult problem in a customs union, the members of the union are working in two important areas that could potentially provide substantial trade benefits to each other. Specifically, the union members are working to improve trade facilitation and are attempting to reduce nontariff barriers, notably the sanitary and phytosanitary and technical barriers to trade based on product requirements. Furthermore, there are plans to move to a common economic space, with preferential agreements in services and the movement of capital and labor. In ^a significant move to reduce trade costs, as of July 1, 2011, customs posts for trade between the member countries were abolished (despite the lack of implementation by Kazakhstan of the common external tariff on a transition basis for about 200 items). Jensen and Tarr (2011) have estimated that the benefits of trade facilitation and the reduction of nontariff barriers could be larger than the trade diversion costs for Kazakhstan and result in benefits. But the gains from reduced nontariff barriers and trade costs were more speculative than the trade diversion costs. Furthermore, the members of the customs union could work in these win-win problems, independent of the common external tariff and the customs union; possibly the commitment of Russia to the customs union may be what is required to make progress in these areas.

RUSSIAN WTO ACCESSION AND THE JACKSON-VANIK AMENDMENT

The U.S. Jackson-Vanik amendment requires an annual review of Russian emigration policies for the United States to grant MFN status to Russia (and other former communist countries). This is a significant irritant to Russia, yet the United States does not presently have any commercial pressure on it to remove Jackson-Vanik. Once Russia becomes a WTO member, however, there will be commercial pressure on the United States from its own exporters and investors to remove the amendment. Consequently, the United States will almost certainly remove Jackson-Vanik after Russian WTO accession.

The WTO requires that permanent MFN status be granted to all members. Thus, the provisions of Jackson-Vanik are inconsistent with MFN treatment required by the WTO. The United States has two options once Russia becomes a WTO member: (1) eliminate Jackson-Vanik, or (2) invoke the "nonapplication principle" of the WTO. For newly acceding countries, a WTO member can opt out of WTO commitments with respect to the newly acceding country if it invokes the nonapplication principle. If the United States were to invoke this principle against Russia, it means that the United States would refuse to honor its WTO obligations to Russia. But nonapplication is reciprocal. So the United States would not have any assurance that its exporters or investors would be treated in Russia according to Russia's WTO commitments.

In practice, the United States has dropped Jackson-Vanik on all countries that have acceded to the WTO with one exception. In the cases of Albania, Bulgaria, Cambodia, Estonia, Latvia, and Lithuania, Jackson-Vanik was repealed prior to accession. In the cases of Mongolia, Armenia, Georgia and Kyrgyzstan it was repealed after accession, so the nonapplication principle was invoked but eventually removed within a year or two. (In the case of Georgia, nonapplication was never invoked because Jackson-Vanik was removed soon enough after accession.) Only in the case of Moldova does Jackson-Vanik still apply to a country that acceded to the WTO (see Cooper 2006 for details).

Former U.S. Trade Representative Rob Portman testified before Congress in 2006 that the United States will have to lift Jackson-Vanik against Russia, Ukraine, and Kazakhstan for U.S. exporters and investors to gain the advantages of the commitments these countries are making at the WTO. In the case of Ukraine, Jackson-Vanik was removed in 2006.

FOREIGN DIRECT INVESTMENT

In the first ten years of transition the inflow of FDI in Russia was very low compared to Eastern European countries and the other countries in the group of Brazil, Russia, India, China, and South Africa. This trend was reversed, however, around 2002–3. As

Table 25.1 Inflow of Foreign Direct Investment to Russia, 2000-2008

ATT DOUBLE AT AN											
2000	2001	2002	2003	2004	2005	2006	2007	2008			
2.7	2.7	3.4	7.9	15.4	12.8	29.7	55.1	72.8			
1.0	0.9	1.0	1.8	2.6	1.6	2.9	4.2	4.5			
5.5	4.1	5.0	8.7	12.4	8.4	14.2	17.1	18.1			
	2.7	2.7 2.7 1.0 0.9	2.7 2.7 3.4 1.0 0.9 1.0	2.7 2.7 3.4 7.9 1.0 0.9 1.0 1.8	2.7 2.7 3.4 7.9 15.4 1.0 0.9 1.0 1.8 2.6	2.7 2.7 3.4 7.9 15.4 12.8 1.0 0.9 1.0 1.8 2.6 1.6	2.7 2.7 3.4 7.9 15.4 12.8 29.7 1.0 0.9 1.0 1.8 2.6 1.6 2.9	2.7 2.7 3.4 7.9 15.4 12.8 29.7 55.1 1.0 0.9 1.0 1.8 2.6 1.6 2.9 4.2			

Sources: World Bank, World Development Indicators (2009); Central Bank of Russia.

fuel prices rose, FDI flows into Russia increased tenfold over time, and it became one of the top countries in the world for inward FDI. By 2006, FDI inflows to Russia even passed China in per capita terms (see table 25.1). The dynamics of Russian outward FDI also has some unusual features. Namely, the outflow is more significant than in other emerging economies and it started very early in the transition.

Nevertheless, starting from such a low base, the stock of FDI in Russia remains substantially lower than in some important comparator countries. The accumulated stock of FDI as a share of GDP was 9.5 percent in 2006. This compares to 26 percent in China and 20 percent in Brazil and is only slightly more than in India (7.5 percent).

The sectoral decomposition of inward FDI is dominated by mining and quarrying (49 percent in 2007) with manufacturing (17 percent) and real estate and business services (11 percent) following. The increase of FDI in the past decade was predominantly channeled into oil and gas extraction, which increased its dominant position in the stock of FDI. Geographically FDI flows are very concentrated: Moscow city got 38 percent in 2006; the Sakhalin region got 15 percent; and the Moscow region followed with 10 percent.

The two major source countries for inflows of FDI are Cyprus (around 35 percent in 2006) and the Netherlands (about the same). The latter is explained by the special position of the Netherlands in managing cross-border transactions in the fuel and gas sectors, and the former derives from investment by Russian nationals who have capital in Cyprus (see OECD 2008, 16). The next most important source country for FDI is Germany, which provided 4.4 percent of the inflow to Russia in 2006. In the first half of 2009 the inflow of FDI was cut in half compared to 2008, and the list of major FDI partners now includes China.

To some degree the significant increase in FDI flows to Russia in the past seven years can be explained by its macroeconomic stability, sound fiscal policy, efficient external debt management, and accumulation of foreign reserves. Infrastructure projects initiated by the state may have also indirectly attracted FDI flows. But the major factor behind the increase in FDI was the increase in the price of oil that made investments in the Russian oil and gas sectors more profitable.

In 1991 the first Russian Law on Foreign Investment set up a legal framework that emphasized national treatment for foreign investors. The law was substantially improved

after the financial crisis of 1998 when new Federal Law No. 160-FZ "On Foreign Investments in Russian Federation," came into effect in July 1999. This law established the conventional definition of foreign investments and FDI. In particular the law addressed the acquisition by a foreign investor of at least 10 percent of the authorized capital of a commercial organization, investment in fixed assets of the branch of a foreign legal entity created in the territory of the Russian Federation, and leasing of equipment where the customs value is at least 1 million rubles; the law covered neither foreign investments in financial and insurance sectors nor foreign investment in nongovernmental organizations. The main emphasis of this version of the law was on safeguards. Besides confirming the national treatment regime for foreign investment, the law provided a guarantee of compensation for nationalization and acquisition of property of that organization against adverse changes in Russian legislation. A grandfather clause applied to a commercial organization with foreign investment if the share of foreign investment in the authorized capital was over 25 percent, as well as a commercial organization with foreign capital, realizing a priority investment project, regardless of shares of foreign investments in the authorized capital. A priority investment project was defined as one approved by the government and in which either the total volume of foreign investments is above 1 billion rubles or the minimum share of foreigners in the authorized capital of commercial organizations is more than 100 million rubles.

Overall, the law provides broad authority to the government of the Russian Federation in foreign investment. The government controls and provides permissions: it sets criteria for assessing changes for the foreign investor, and it registers and controls the implementation of priority investment projects. The government also provides guarantees and incentives for the foreign investor and support for investment projects using budgetary and extrabudgetary funds.

Although the large and expanding Russian domestic market can be attractive for foreign investors, there are several clear risks associated with the Russian economy. The first one is the high share of output and exports in the energy sectors. Being so heavily dependent on a small number of commodities with volatile prices makes the whole economy relatively volatile. Investors may need higher returns to compensate for the volatility, which could reduce FDI inflows. To fight the potential risks of macroeconomic instability associated with volatile oil prices, the government launched the Stabilization Fund of the Russian Federation in 2001.

On the other hand, in the past decade, increased government control over the economy and problems with the slow pace of regulatory and administrative reforms impede FDI. The increase in government control of the economy started with Putin's first administration. Putin became progressively more open in establishing a dominant role for the Russian state in key sectors, including scrutiny of foreign investors in these sectors. The key piece of legislation on this was the law on strategic sectors, approved in May 2008. It defines the conditions under which foreign investment will operate in forty-two strategic sectors and requires prior authorization for the foreign investor to be able to control any business entity operating in these industries. Most of the industries on the list can be aggregated in broad categories, such as military and defense industries,

dear and radioactive hazardous materials, space and aviation-related sectors, subsoil application and exploitation, and the fishery sector. The list also includes industries covered by the law on natural monopolies, for example, large-scale communication compants, TV and radio broadcasting, and printing services.

The first obvious critique of this law is the expansion of the strategic status over sectors that are not deemed to be strategic in many economies. Some service sectors, such as and radio broadcasting and printing are there so the state can control the major media outlets in Russia. The inclusion of the industries covered by the Law On Natural Monopolies¹⁴ is aimed at widening state control of the Russian economy.

Although the procedures required for prior clearance of foreign investments are meticulously specified in the law, the time allowance for the official to grant consent or declare the transaction as being a threat to the country's security is quite long and variable; it varies from four to seven months. In this respect the law differs from the practice of similar legislation in many OECD countries (OECD 2008, 27).

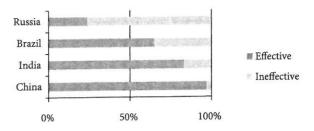
Some experts point out (Gati 2008, 22) the positive role this law might play in attracting FDI into the economy because the conditions the investor must take into account while planning business transactions are explicitly defined. Nevertheless, by extending the limitations on foreign control to too many sectors and allowing the officials too much time to reach decisions (time will tell if the determinations are seen as ad hoc by the foreign investment community), the law can discourage a substantial amount of potential FDI inflows.

Another potential negative effect of the law could derive from the excessive controls on subsoil exploration and exploitation. It limits the degree of risk sharing related to subsoil exploration. In an era of a high uncertainty about volatile oil and gas prices, the risks involved in the substantial investments in the energy field are often shared. Because foreign shares of these investments will be limited, greater risks will be borne by the Russian economy.

The Russian government has also substantially expanded its role in the economy due to the emergence of state strategic corporations in energy, aircraft, shipbuilding, car manufacturing, forestry, and the banking sector. State enterprises absorbed many incumbent firms in these sectors and now are often the dominant firms in these sectors; these enterprises may have access to budgetary support (see Gati 2008, 17, for a similar view).

In many of these markets, private firms may find it difficult to compete with state enterprises that are subsidized, leading to less competition in many domestic markets—with an inevitable decline in efficiency, higher prices, and lower quality of domestic production.

Following the Chinese example, the government of the Russian Federation established a Foreign Investment Advisory Council (FIAC; see http://www.fiac.ru) in 1994, which now includes forty-two members, among which are the major multinational corporations and world organizations. The FIAC promotes liberalization of international trade and investment regimes and regularly conducts surveys to highlight the advantages and obstacles foreign investors face in Russia. According to investors surveyed in 2005, the main advantages of Russia are the large size of the economy, sustained growth rates, and a highly skilled labor force. However, the tax regime and administrative barriers are rarely mentioned among positive factors of foreign investments in Russia.



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FIGURE 25.1 The Russian Government Is Hardly Effective in Promoting FDI

Source: Survey of foreign investors by FIAC in 2005 (134 respondents).

Regarding obstacles investors in Russia face, more than 80 percent of the respondents complain of administrative barriers and more than 75 percent of corruption and inadequate and inconsistent legislation and implementation of the law.

When asked to compare the effectiveness of the governments in Brazil, Russia, India, and China to promote foreign investment, 134 CEOs of major multinationals placed the Russian government as the least effective (see figure 25.1). Not surprisingly, among the main priorities of the Russian government in 2008 survey, CEOs emphasized the improvements in the legal system and law, implementation, and fighting corruption.

Over the past two years, the government has changed its public stance to argue for modernization of the economy with an emphasis on FDI as the vehicle to achieve this goal. However, the increase in state control of productive assets, limitations on FDI in several questionable areas, and increased use of import-substitution industrialization all work against this objective. These tendencies emphasize the internal conflicts of the current government regarding its economic policy in general and with regard to FDI in particular.

To increase the attractiveness of Russia as a destination for FDI, the government should work in several important directions. First, it needs to improve domestic institutions to make Russia a better place for doing business. Russian rankings in the Doing Business Survey and Enterprise Surveys are below the means in almost all respects, and they worsened in recent years. ¹⁵ In 2009, 50 percent of the surveyed firms in Russia mentioned corruption as a major constraint for development. Enormous efforts should be made just to change this tendency, and they involve legislative and court reform, among others.

Second, important steps should be implemented to make Russia a better place for locating some part of the production process. FDI flows are now increasingly channeled into vertical international production chains. Participation in international production chains poses very specific requirements, not just for the business climate in the country but also on trade facilitation with high transparency of national borders. In this respect Russia falls behind its major competitors for FDI flows, being ranked only 99th out of 150 countries evaluated by the International Logistic Performance Index. The situation with customs is especially dreadful with Russian ranking only 137th out of 150. Unfortunately customs reform was not on the list of priorities aimed at modernization of economy highlighted by President Dmitry Medvedev in his annual address to the Federal Assembly on November 12, 2009.

IMPROVING CUSTOMS: ANY ROLE FOR UNIFORM TARIFFS OR PRESHIPMENT INSPECTION

Given the problems in customs performance in Russia, some have recommended uniform tariffs and preshipment inspection services. In our view, there is enormous merit in uniform tariffs, but preshipment inspection services are likely to produce only marginal benefits at best.

In response to a request from the Russian Ministry of Trade, David Tarr (1999) has analyzed the advantages and disadvantages of a uniform tariff for Russia.¹⁷ He argues (Tarr 1999, 2002) that there is little merit for Russia in the various arguments against a uniform tariff. That is, there is little merit to the argument for diverse tariffs for strategic trade policy, for optimum revenue, for exploitation of optimal power on imports, for negotiation leverage at the WTO, or for balance of payments purposes. On the other hand, a uniform tariff reduces the incentive to smuggle due to elimination of the tariff peaks or to misclassify goods at customs. By far the biggest advantage is the political economy incentive. As the experience of Chile has shown, because the uniform tariff eliminates the gains to individual sectors, it removes the incentive for industrialists to lobby for higher tariffs. So the country will get a more liberal tariff regime.

Even if there is no incentive to misclassify goods due to a uniform tariff, an incentive to falsify the valuation of the goods remains, and this provides opportunities to customs officials to extract bribes. Preshipment inspection (PSI) is designed to deal with that problem (among others). The results for increased revenue collection from PSI, however, are not impressive. PSI delegates to a foreign private firm the valuation and some other functions. The foreign firm takes its fees (about 1 percent of the value of the imports). There appear to be some increase in customs revenues, but importers often complain that they have to go to extra expenses to undergo the PSI and then customs puts them through inspections anyway. This raises the costs of delivering the goods and further erodes any benefits to the home country. Crucially, PSI does nothing for building the capacity of the home country to effectively implement a customs regime (including customs valuation), which is the real long-run goal.

Is Russian WTO Accession Crucial to the International Community or to Russia?

We are skeptical that the Russian WTO accession will convey significant benefits to the international trading community. Multiregional trade models have shown that it is the own-country liberalization that is important. That is, countries that make substantial commitments in multilateral negotiations gain more. Those that do not make

commitments gain very little from liberalization in the rest of the world. Numerous assessments of the Uruguay Round found that result (Martin and Winters 1996; Harrison, Rutherford, and Tarr 1997). Harrison, Rutherford, and Tarr (2002, 2004) have also found this result in multiregional trade models of regional arrangements. In Rutherford, Tarr, and Shepotylo (2005), the authors showed that Russia has dramatically more to gain from its own liberalization in WTO accession than from liberalization in the rest of the world—such as through a very successful Doha Development Agenda. Adapting the well-known computer acronym, Alan Winters has summarized these results with an acronym "WYDIWYG—what you do is what you get." The bottom line is, notwithstanding the growing importance of Russia in world markets and the fact that some Western firms will find profits selling or investing in Russia, it is difficult to argue that the United States or the rest of the world will significantly gain economically from Russia's accession.

We believe that the United States and the rest of the world would like to see Russia as a cooperating partner in dealing with international problems. They would like to see Russia within the WTO, playing trade by the same rules, as part of that process. This is more of a geopolitical argument than an economic argument.

RUSSIA AT THE CROSSROADS ON TRADE AND FDI POLICY

WTO Accession: Unique Historical Opportunity for Reform

We have shown estimates that suggest that Russians will reap large gains from WTO accession and that the largest gains derive from its own liberalization commitments. Some will argue that if virtually all the gains come from their own liberalization, why bother to go through the long painful contentious process of WTO accession, when the country can independently liberalize and achieve virtually all the benefits of accession. We would argue rather that WTO accession is a unique historical opportunity to dramatically move the country forward toward an open-economy model of economic development. In a business-as-usual scenario, concentrated forces who want protection in their sectors will lobby to defeat liberalization, while those who gain from liberalization are diverse and, due to a free-rider problem, often do not lobby. The uneven lobbying often leads to excessive protection.

WTO accession involves foreign business interests and foreign governments in the negotiations on the level of home protection. WTO accession compels policy makers at the highest levels of government to engage in the process and they will often impose liberalization on slow-moving ministries and sectors. Moreover, commitments at the WTO "lock in" reform in a manner that is not easily reversed by future less reform-minded governments.

How to Achieve Diversification: Russia at the Crossroads on Trade and FDI Policy

Throughout the first decade of the twenty-first century, Russia has had large trade surpluses. These surpluses have exceeded \$100 billion annually since 2005, giving Russia the largest trade surplus in the world in some of those years. Despite these large surpluses, which amounted to between 9 and 14 percent of Russian GDP since 2005 (see table 25.2), Russia has become increasingly concerned about the mineral (mainly energy) dependence of its production structure and exports, as minerals exports alone constituted 65 percent of exports in 2007. In response, the Russian Federation has increasingly employed import-substitution industrialization and industrial policy for diversification of its economy or for political purposes. This has included

- very high export taxes on timber to develop the wood processing industry;
- increased import tariffs on the food processing, light industry, and automotive sectors;
- use of sanitary and phytosanitary measures for protection against meat imports
 from the United States and dairy exports from Ukraine, and as a political tool
 against Georgia, Moldova (briefly), and possibly Belarus in June 2009;
- increases in agricultural production subsidies;
- restrictions on foreign investment in the Russian economy through the introduction of the law of foreign investment in strategic sectors in 2008;
- the creation of a grain marketing board with unclear objectives;
- local content and output requirements for foreign investors in the auto sector that are alleged by its trade partners to be in violation of WTO rules on trade-related investment measures (as part of its WTO accession commitments, Russia agreed to phase out these restraints by July 1, 2018);
- · export restraints on steel scrap; and
- according to a report of the European Commission, Russia has led the world in the introduction of trade-restrictive measures in response to the financial crisis (European Commission 2009).

Table 25.2 Trade Balance of Russian Federation, 2000–2008 (Billions of Current U.S. Dollars)

	2000	2001	2002	2003	2004	2005	2006	2007	2008
Exports	114.6	112.7	120.9	152.1	203.8	268.8	334.6	393.8	522.9
Imports	61.1	73	84.5	103.2	130.7	164.2	209	282.5	368.2
Trade balance	53.5	39.7	36.4	48.9	73.1	104.6	125.6	111.3	154.7
Trade balance as a % of GDP	20.6	12.9	10.5	11.3	12.4	13.7	12.7	8.6	9.6

Sources: Rosstat; World Bank, World Development Indicators (2009)

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TO led Many of these actions would be constrained by WTO rules or commitments. Thus, Russian leaders may wish to more actively use industrial policy and import-substitution industrialization, and now see the WTO rules as counterproductive to Russian development. 18

Diversification of the Russian economy is a worthy goal. However, as emphasized by Guriev and Tsyvinski (2010), to achieve diversification, institutional reform to improve the business climate is necessary. Russia rates badly on measures of institutional development. For example, it ranks 123 out of 183 on the Doing Business Index of 2010 (World Bank 2010a); 94 out of 155 on the Logistics Performance Index of 2010 (World Bank 2010b); and 154 out of 178 on the Transparency International Corruption Perceptions Index of 2010. Small and medium enterprises depend crucially on the institutional environment for doing business. The incredibly rapid improvement of Georgia in the past eight years (now ranked eleventh in the world on the ease of doing business) has shown that very rapid progress is possible in institutional performance when a concerted effort is made starting from the highest levels of government.

NOTES

1. See Michalopoulos and Tarr (1992, 1994, 1996) for a discussion of trade policy in Russia in the early years of independence. See Tarr (1993, 1994) for estimates of the terms of trade gains for Russia due to the dissolution of the former Soviet Union.

During Putin's first administration, the chief negotiator for WTO accession of the Russian Federation prepared a matrix of forty-two packages of legislation that he needed to have prepared and passed by the Russian Duma to conform to accession requirements.

3. Russia's GDP at market exchange rates is estimated at \$1.61 trillion by the World Bank in 2008, \$1.68 trillion by the International Monetary Fund, and \$1.76 trillion by the Central Intelligence Agency, making it either the eighth or ninth largest economy in the world. Based on purchasing power parity (PPP) exchange rates, Russia's GDP was \$2.3 trillion in 2008, making it the sixth largest economy in the world—larger than the United Kingdom or France. At PPP exchange rates, the estimated gains from WTO accession would rise in the medium term to about \$76 billion per year and \$253 billion per year in the long term.

4. A welfare increase of 3.3 percent of GDP is quite plausible in the context of the estimated gains from trade liberalization from econometric studies. First, Rutherford and Tarr (2002) have shown that a permanent increase of between 0.4 percent and 1 percent in the growth rate of an economy corresponds to a welfare increase of between 10 and 35 percent. Sachs and Warner (1995) estimate that open economies have grown about 2.45 percent faster than closed economies, with even greater differences for open versus closed economies among developing countries. They note that trade liberalization is often accompanied by macro-stabilization and other market reforms, and their open economy variable can be picking up these other effects as well. But they argue that trade liberalization is the sine qua non of the overall reform process, because other interventions such as state subsidies often are unsustainable in an open economy. Moreover, Frankel and Romer (1999) have shown that adjusting for the simultaneity bias in cross-country regression studies such as the one by Sachs and Warner does not reduce the estimated impact of openness on growth. More recently, using time-series data on individual countries, rather than cross-country growth regressions, Wacziarg and Welch (2009) find compelling evidence that countries

grow about 1.5 percentage points faster after they liberalized trade. Rodrik, Subramanian, and Trebbi (2004) and Freund and Bolaky (2008) have highlighted the importance of good institutions for economic growth. Freund and Bolaky have shown that in 25 percent of the countries with the worst business and labor regulations, open trade can harm growth. On the other hand, for the 75 percent of the countries with the best business and labor regulations, open trade has an even stronger beneficial effect on growth than previous authors have found. But Dollar and Kraay (2003) find evidence that trade is more important than institutions in the medium run; Rodrik, Subramanian, and Trebbi (2004) have shown that trade liberalization can improve institutions, whereas Ades and di Tella (1999) find evidence that increased trade leads to reduced corruption.

- 5. They estimate that as a percent of consumption in the medium term the three regions in their model that will gain the most are the Northwest (11.2 percent), St. Petersburg (10.6 percent), and the Far East (9.7 percent), whereas the Urals (6.2 percent) gains the least. See Rutherford and Tarr (2012) for an assessment of how the distributional impacts of WTO accession vary within these ten Russian regions.
- 6. In addition, WTO members obtain rights in international trade. Members are granted permanent most favored nation status to the markets of other member states. So Russia will not have to be concerned about annual renewals of most favored nation status. Members are also able to use the WTO's dispute settlement procedures to protect their trade interests, such as in antidumping cases. Trade disputes among WTO members are resolved based on WTO legal agreements under which smaller countries have the potential to win disputes against large countries. All WTO agreements require unanimous consent of all the members, and this helps provide a voice for the smaller member countries. On the other hand, nonmembers will be influenced by the new rules of this dominant organization in international trade, without a voice in their formation.
- 7. The WTO provided some details of the commitments of the Russian Federation in its news release of November 10, 2011, available at http://www.wto.org/english/news_e/news11_e/acc_rus_10nov11_e.htm. In addition, the U.S. Trade Representative (2006) has released five Fact Sheets with details of Russian commitments as part of the U.S.—Russia bilateral protocol. See these sources for further details. After accession of the Russian Federation, the report of the Working Party and the Schedule of Commitments of the Russian Federation will be available and will provide much greater detail.
- 8. There are more than 1,700 tarifflines with specific tariffs in the Russian and Customs Union tariff schedule. It will be necessary to calculate the ad valorem equivalents of the Russian specific tariffs after Russia implements its tariff commitments to precisely determine the average tariff.
- Russia agrees to reopen discussions on this issue on consideration of membership in the OECD.
- 10. In addition, there is a Blue Box category that is not relevant for Russia.
- 11. The total value of state support to Russian agriculture in 2008 was about 163 billion rubles (or about US\$ 6.5 billion). See http://www1.minfin.ru/ru/budget/federal_budget/08-10/. The Ministry of Finance data include all support to agriculture, including many items that would be considered Green Box support, that is, unconstrained support. The total value of Russian agricultural output in 2008 was 1,776 billion rubles (including agriculture, hunting, and fishing). (See the Rosstat website for this information, http://www.gks.ru/bgd/free/boo_25/IssWWW.exe/Stg/dvvp/iooo610r.htm.) Subsidies of 163 billion rubles are about 9 percent of the value of agricultural output. The \$9 billion in Amber Box subsidies sought

- by Russia is about 12–13 percent of the aggregate value of Russian agricultural output.
- 12. One unusual demand on Russia was the pressure to unify the domestic and export price of natural gas. This demand, which occupied negotiators for considerable time and was eventually dropped by the European Union, would have imposed a very high cost (see Tarr and Thompson 2005).
- 13. Two of the least developed nations acceded with relatively high bound tariffs: Cambodia, 17.7 percent, and Nepal, 23.7 percent. The WTO accords a preferential status to developing countries.
- 14. These industries include pipeline delivery of oil, petroleum products, or natural gas; power station operations; railway transportation; ports; and airports.
- 15. The data from the Doing Business Surveys are available at http://www.doingbusiness.org; data from the Enterprise Surveys are available at http://www.enterprisesurveys.org/CountryProfiles/.
- 16. The data from the Logistics Performance Index are available at http://info.worldbank.org/etools/tradesurvey/mode1b.asp. See World Bank (2007) for the 2007 index.
- 17. These ideas were developed further in Tarr (2002).
- 18. Åslund (2007) has elaborated the stiffening of political will in Russia on WTO accession.

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