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**TRENDS AND OUTLOOKS**

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The review "Russian economy. Trends and outlooks" has been published by the Gaidar Institute since 1991. This is the 45th issue. This publication provides a detailed analysis of main trends in Russian economy, global trends in social and economic development. The paper contains 5 big sections that highlight different aspects of Russia's economic development, which allow to monitor all angles of ongoing events over a prolonged period: the monetary and budget spheres; financial markets and institutions; the real sector; social sphere; institutional changes. The paper employs a huge mass of statistical data that forms the basis of original computation and numerous charts confirming the conclusions.

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### **5.5. Russia's participation in WTO disputes in 2023<sup>1</sup>**

#### **1. WTO crisis and Russia's participation in WTO after beginning of SMO**

For several years, the WTO system, in particular trade dispute settlement mechanism, has been in a state of crisis. The main reasons are the following: growth of protectionism, trade wars, the COVID-19 pandemic, systemic problems, primarily, freezing of the Appellate Body (AB). According to the U.S., the AB exceeds limits of its authority, sometimes making decisions outside of the WTO law, thus, developing rights or obligations for member countries that are not provided for in the existing WTO agreements and violating time limits for appeals. The U.S. has blocked decisions on appointment of new AB members. Many WTO member countries agree on the need for reforms.<sup>2</sup> According to experts, despite internal challenges, WTO has no alternative related to matters regulating international trade relations.

After Russia launched a special military operation (SMO) late February 2022, a number of countries (primarily the EU and the U.S.) began to impose unprecedented trade and economic sanctions against Russia: they began to suspend the most-favored-nation treatment (MFN) against Russia, which contradicts the basic principle of the WTO: non-discrimination; discussing its exclusion from the WTO (suspend Russia's membership rights contrary to the WTO rules, which do not

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2 Details are available in: URL: <https://www.iep.ru/ru/publikacii/publication/rossiyskaya-ekonomika-v-2020-godu-tendentsii-i-perspektivy-vypusk-42.html>

foresee such actions). Attempts to isolate Russia from WTO activities will result in paralysis of the WTO main functions, i.e. provide a platform for trade negotiations and administering trade agreements.

In mid-March 2022, a message dated March 15, 2022<sup>1</sup> was circulated to WTO Members on behalf of the Russian Federation drawing the attention of WTO Members to threats to multilateral trading system due to recent aggressive and politically motivated trade-restrictive actions by some Members. The message noted that the following measures clearly contradict the provisions of GATT 1994 and GATS:

- imposing import tariffs above MFN rates;
- a ban on imports of Russian crude oil and refined petroleum products, as well as intentions to restrict imports of other energy resources, such as natural gas and coal;
- restrictions on imports of various goods to Russia, including oil refining equipment and technology, foodstuffs and industrial consumer goods;
- blocking Russian financial institutions, including freezing a significant portion of foreign currency reserves, and transportation companies;
- ban on new investments in the Russian Federation, including in the Russian energy sector;
- strict export controls/complete ban on trade in other goods and technologies crucial for economic development.

Due to introduction of large-scale trade sanctions against Russia, thereby discriminating Russian companies in foreign markets, the issue of Russia's prospects of participation in the WTO, possible violations of multilateral trade rules by WTO members, and Russia's potential withdrawal from the organization are widely discussed.<sup>2</sup> Some Russian experts and politicians suggest that Russia should withdraw from the WTO, while others believe that this is what the countries imposing sanctions against Russia are trying to achieve.<sup>3</sup> Others believe that Russia's withdrawal from the WTO will exacerbate discriminatory trade with the world.<sup>4</sup> A number of expert arguments in favor of Russia's participation in the WTO and suggestions for the Russian position can be identified:<sup>5</sup>

- there will be more restrictions against Russia without WTO. The terms of trade with those countries having no political contradictions with Russia will become more complicated. Most WTO members have not imposed sanctions against Russia;
- WTO is an important tool to support Russian exports, and Russia's withdrawal will create risks for businesses and individuals.
- access to removing barriers in the WTO working bodies;
- access to developing new international trade rules;

1 URL: [https://wto.ru/news/rasprostraneno-soobshchenie-rossiyskoy-federatsii-v-ramkakh-vto/?bitrix\\_include\\_areas=N](https://wto.ru/news/rasprostraneno-soobshchenie-rossiyskoy-federatsii-v-ramkakh-vto/?bitrix_include_areas=N).

2 URL: <https://pravo.ru/story/239997/>

3 URL: <https://www.rbc.ru/rbcfreenews/6238870a9a79476f887f02ee>

4 URL: <https://cyberleninka.ru/article/n/vzaimodeystvie-rossii-i-vto-v-usloviyah-mezhdunarodno-pravovyh-i-ekonomicheskikh-sanktsiy-istoriko-pravovoy-aspekt>

5 URL: [http://www.vavt-imef.ru/wp-content/uploads/2022/07/Monitoring\\_82.pdf](http://www.vavt-imef.ru/wp-content/uploads/2022/07/Monitoring_82.pdf)

- access to the WTO trade dispute settlement mechanism;
- if Russia withdraws from the WTO, it will be extremely difficult to re-enter the organization, as Russia will face completely different, most likely more stringent requirements;
- the WTO principles are largely integrated into the EAEU activities and Russia's withdrawal from the WTO will complicate trade relations with other EAEU member states (Belarus, Kazakhstan, Armenia and Kyrgyzstan);
- it is important to support the process of accession of Belarus to the WTO under a more favorable geopolitical situation, filling formalities for EAEU participation in the WTO (similar to the EU).

The mechanism for suspending MFNs with respect to a particular country is controversial. The Marrakesh Agreement does not contain provisions allowing for such measures. However, other WTO agreements, such as the GATT, allow to introduce some restrictions with reference to Article XXI (Security Exceptions), when there is an emergency and a significant threat to national security. When defendants invoke these provisions, there is a question of enforcement and interpretation of the provisions of the article in relation to each specific situation.

Nevertheless, it seems reasonable, for example, to develop a WTO complaint against the EU and the U.S. for banning sale of airplanes, spare parts and equipment, insurance and maintenance services to Russian airlines; violation of obligations of leasing companies. One of the arguments could be that these bans affect the safety of Russian airlines.

Another controversial issue is the ban of transit of sanctioned goods through Lithuania from Russia to the Kaliningrad region. The EU may also invoke this article in case of a dispute against Russia over the ban of transit of sanctioned goods through Lithuania to the Kaliningrad region. The WTO Dispute Settlement Body (DSB) sided with Russia in a dispute over restrictions on transit of goods from Ukraine through Russia to third countries (Central/East Asia and the Caucasus) initiated by Ukraine in 2016 (DS512).

However, the difference is that Russia banned transit for international trade, while Lithuania banned transit from one Russian region to another. As a result, in July 2022, the European Commission banned road transport of sub-sanctioned goods through its territory from Russia to Kaliningrad, but this regime does not apply to rail transportation.<sup>1</sup>

At the 12th WTO Ministerial Conference, Vladimir Ilyichev, Head of the Russian delegation, Deputy Minister of Economic Development highlighted the most problematic issues for Russia:<sup>2</sup>

- unilateral unlawful sanctions since 2014;
- illegal methods of calculating dumping margins;
- appeals of disputes won (including by Russia) "into the void";
- unilateral tariffs imposed on one or a group of WTO members.

Prior to the 13th WTO Ministerial Conference, Vladimir Ilyichev noted the importance of the ongoing Russia's work in the WTO, both in improving the work

<sup>1</sup> URL: <https://www.rbc.ru/politics/13/07/2022/62cecbfa9a79479d807eb34b>

<sup>2</sup> URL: [http://www.vavt-imef.ru/wp-content/uploads/2022/07/Monitoring\\_82.pdf](http://www.vavt-imef.ru/wp-content/uploads/2022/07/Monitoring_82.pdf)

of the DSB, including overcoming the crisis of AB, consideration of alternatives to AB, and in negotiations on such tracks as e-commerce, protectionist measures taken under the pretext of environmental protection, investment facilitation, legislation of countries in the field of fish subsidies, problems of plastic pollution, etc.<sup>1</sup> Finalizing negotiations to improve dispute resolution procedures by the end of 2024 could be an important part of the outcome of the 13th Ministerial Conference.<sup>2</sup>

Other significant areas of negotiations are sustainable agriculture, renewable energy sources (RES), cross-border telemedicine as a response to future global health crises and technology transfer. There has been an increase in transparency in WTO activities, including the use of electronic databases. WTO rules on sanctions should be reviewed and concept of emergency situations formalized, as well as restrictions on using sanctions measures be introduced.<sup>3</sup> This is a challenging task for Russian negotiators at the WTO. In order to counter sanctions, Russia should study the experience of applying retaliatory measures in the WTO.

## 2. Retaliatory measures in the WTO

As of the end of 2023, among 621 WTO trade disputes in 1995-2023, a total of about 43 disputes (about 7% of all WTO disputes)<sup>4</sup> have been requested by claimants to impose retaliatory measures against a respondent that fails to comply within a reasonable period of time with DSB rulings and recommendations.

Retaliatory measures were authorized in 20 disputes. In 75% of cases (15 out of 20 disputes), suspension of concessions was authorized against the U.S., in 3 disputes against the EU, and in one dispute each against Canada and Brazil. The right to impose retaliatory measures (some disputes have multiple plaintiffs): EU – 5 disputes, Canada – 5 disputes, Mexico – 4 disputes, Brazil – 3 disputes and others.

Article 22 (Compensation and Suspension of Concessions) of the Understanding on Rules and Procedures Governing Dispute Resolution (URPGDR) provides that compensation and suspension of concessions or other obligations may be resorted to if the respondent fails to comply with the recommendations of the DSB within a reasonable period of time. Initially, the parties should consult on mutually acceptable compensation.

It does not mean monetary payments; the defendant must offer a benefit (e.g., tariff reduction) equivalent to that which the defendant canceled or reduced by applying the measure.<sup>5</sup> Compensation must be consistent with the agreements and MFNs covered in the dispute. This may be why WTO Members have almost never been able to agree on compensation in disputes. If, within 20 days after the expiration of a reasonable period of time, parties have not agreed on satisfactory

1 URL: <https://www.interfax.ru/interview/947953>

2 URL: <https://www.kommersant.ru/doc/6532075>

3 URL: [http://www.vavt-imef.ru/wp-content/uploads/2022/07/Monitoring\\_82.pdf](http://www.vavt-imef.ru/wp-content/uploads/2022/07/Monitoring_82.pdf)

4 Here and further – analysis based on official WTO website: URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/dispu\\_status\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm)

5 URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/dispu\\_settlement\\_cbt\\_e/c6s9p1\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/dispu_settlement_cbt_e/c6s9p1_e.htm)

compensation, the plaintiff may apply to the DSB for permission to impose retaliatory measures against the defendant, i.e. "suspension of concessions or other obligations under covered agreements."<sup>1</sup> The task of the arbitrators is to determine limits of permissible retaliation by the claimant in response to the defendant's initial measure inconsistent with WTO rules and regulations.<sup>2</sup> Although there is no uniform interpretation of the appropriate level of cancellation or depreciation, a suspension of trade designed to stabilize the value of exports and imports in trade between countries is under consideration. In case of a restrictive measure, the permissible response of the claimant is to reduce exports by an amount equal to the defendant's reduction in imports, measured in original export prices prior to the violation of WTO obligations (reciprocity principle).<sup>3</sup>

The parties propose methodology for calculating the limit of suspension of concessions/other obligations. The arbitrator analyzes their arguments and models, proposes a final methodology and calculates such limit, however, the approach depends on specific facts and circumstances of the dispute and the recommendations of the WTO DSB.

Often, a counterfactual situation is considered vs. situation that occurs in presence of the challenged measure, as well as adjustments are made by the requested parties to the values of the countermeasures.

Arbitrators use both simple trade statistics-based share models (DS26, DS27) and more complex partial equilibrium models (mainly the Armington model for resolving disputes over safeguard measures (DS437, DS484, DS471, DS505)), as well as econometric models for calculating prices, volumes and elasticities, etc.) to calculate response limits.

The arbitrators rely on decisions in similar disputes. Some proceedings have allowed for inflation-adjusted responses, while others have not. There are issues of technical complexity of models, availability and reliability of data.

### 3. The WTO Trade Dispute Settlement Mechanism

Russia joined the WTO on August 22, 2012. For more than 10 years it has had access to the WTO Trade Dispute Settlement Mechanism. This mechanism operates in accordance with the WTO Trade Dispute Settlement Mechanism.<sup>4</sup> Since August 2012, Russia has the right to protect its trade interests using this instrument. The WTO dispute settlement procedure consists of five main consecutive stages:<sup>5</sup>

- 1) *holding bilateral consultations* (within 60 days from the date of submission of the request for consultations);

<sup>1</sup> URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/disp\\_settlement\\_cbt\\_e/c6s10p2\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/disp_settlement_cbt_e/c6s10p2_e.htm)

<sup>2</sup> URL: [https://www.wto.org/english/res\\_e/reser\\_e/ersd200804\\_e.pdf](https://www.wto.org/english/res_e/reser_e/ersd200804_e.pdf)

<sup>3</sup> URL: [https://web.archive.org/web/20030422170827id\\_/http://www.columbia.edu:80/~kwb8/reciprocity.pdf](https://web.archive.org/web/20030422170827id_/http://www.columbia.edu:80/~kwb8/reciprocity.pdf)

<sup>4</sup> URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/dispu\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm)

<sup>5</sup> URL: <https://www.iep.ru/ru/publikatcii/publication/rossiyskaya-ekonomika-v-2021-godu-tendentsii-i-perspektivy-vypusk-43.html>

- 2) *establishment of an Arbitration Panel (AP)* at the request of any disputing party and selection of its members to consider merits of the dispute (45 days from the date of submission of a request to establish a AP);
- 3) *operation of the Arbitration Panel* (6-9 months from the start of the AP) and acceptance of its report by the Dispute Resolution and Recommendation Body (DSB) (approximately 60 days from the date of submission of the AP report);
- 4) *review of the case by the Appellate Body (AB)* when at least one of the parties files an appeal (60-90 days from filing of appeal), acceptance of the Appellate Body's report by the DSB and the announcement of the DSB recommendations to the parties (30 days from the submission of the AB's report);
- 5) *DSB control* over the implementation of recommendations (not more than 15–18 months from the date of the DSB acceptance of the AP or AB report).

The WTO Trade Dispute Settlement Mechanism provides for retaliatory measures against a respondent that does not comply with WTO rules and regulations, but in practice such measures have not been often authorized by the DSB.

#### 4. WTO trade disputes with Russia's participation

As of the end of 2023, Russia has been and is involved in 121 WTO disputes: 8 as a plaintiff, 11 as a defendant and 102 as a third party. In 2023, neither Russia has initiated any disputes, nor any disputes initiated against Russia. In the role of a third party, Russia joined 5 new trade disputes in 2023. Some of the disputes in which Russia is a third party have already been concluded, and in a number of cases Russia has benefited (directly or indirectly) from its participation.

As a rule, Russia is the principal party in the WTO disputes with the EU, Ukraine and the United States. As a plaintiff, Russia is interested in anti-dumping investigations and measures, particularly in the metallurgical and chemical industries. Countries complain against Russia about TBT, SPS measures, anti-dumping, trade-impacting investment measures, tariffs, transit restrictions, import substitution and export restrictions.

Most of the disputes, which Russia has joined as a third party concern metallurgical industry, agriculture and food, automotive and aircraft industry, wood processing industry and RES. Special attention is paid to disputes over domestic market protection measures (anti-dumping, countervailing and special safeguard measures) as well as subsidies. Cases of trade and economic sanctions and national security exceptions are also attractive.

Russia's participation in the role of a third party is associated not only with a substantial trade interest, but also with the practice of participation in specific disputes, systemic interest in the application of WTO norms and rules. Sometimes Russia takes a position similar to the defendant. In 2023, in many WTO trade disputes where Russia participated as a third party, plaintiffs and defendants reached mutually acceptable solutions.



Russia is interested in preserving the multilateral format of negotiations, observing commitments in accordance with WTO rules, restoring full-fledged activity of the DSB and realizing Russia's goals on current disputes, where it participates, as well as on other disputed trade practices. Moreover, it is important for Russia to participate in negotiations on new international trade rules that meet today's challenges, in particular WTO rules on sanctions, definition of emergency situations, restrictions on the use of sanctions measures<sup>1</sup>, etc.

### *The 2023 changes in WTO trade disputes involving Russia as a plaintiff*

*DS521: EC – Anti-dumping measures on cold-rolled steel from Russia (Russia)*

On January 27, 2017, Russia has submitted a request to the DSB for consultations with the EU on anti-dumping measures against Russian cold-rolled products.<sup>2</sup> Exports of the disputed goods from Russia to the EU in 2016 dropped by 84% compared to 2015 and the share of Russian exports in total exports of these goods dropped from 46% in 2015 to 10% in 2016.<sup>3</sup> Anti-dumping duties: 34% for Severstal, 18.7% for MMK, 36.1% for NLMK and others. The dispute is an example of Russia challenging the practice of "energy adjustments" used in anti-dumping investigations, when information from Russian producers is replaced by data from third countries despite the EU recognition of Russia's market economy status.

The AP is working since April 26, 2019. In 2022, at the request of Russia, the AP suspended its work, resumed in March 2023, but in summer of 2023 the AP suspended its activity again. If the work of the AP is suspended for more than a year, its powers should expire (Art. 12.12 of the URPGSD). Russia seeks to ensure that anti-dumping investigations are conducted and measures are imposed by the EU in accordance with WTO rules and regulations.

If DSB recognizes that the EU's energy adjustment practices are not systemically WTO-consistent, this would make it more difficult for the EU to conduct anti-dumping investigations and impose anti-dumping measures against Russia, which would lower costs for Russian exporters, especially in the metallurgical and chemicals sectors, since safeguard measures are in fact tariff increases. For example, in the DS493<sup>4</sup>, dispute initiated by Russia in 2015, Ukraine lifted anti-dumping measures on ammonium nitrate against Russian exporters.

Since June 2008, an anti-dumping duty has been in effect: Dorogobuzh – 29.25%, for other Russian companies – 42.96%.<sup>5</sup> Russian imports of ammonium nitrate to Ukraine decreased from \$70.9 mn (7% of Russia's ex-port and 99% of Ukraine's imports of this commodity) in 2013 (prior to crisis in Russian-Ukrainian relations from 2014) to 0 in 2020–2022.<sup>6</sup>

1 URL: [http://www.vavt-imef.ru/wp-content/uploads/2022/07/Monitoring\\_82.pdf](http://www.vavt-imef.ru/wp-content/uploads/2022/07/Monitoring_82.pdf)

2 URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds521\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds521_e.htm)

3 Data bank UN COMTRADE. URL: <http://comtrade.un.org/>

4 URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds493\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds493_e.htm)

5 URL: [https://www.economy.gov.ru/material/directions/vneshneekonomicheskaya\\_deyatelnost/dostup\\_na\\_vneshnie\\_rynki\\_i\\_zashchitnye\\_mery/reestr\\_ogranich\\_mer/](https://www.economy.gov.ru/material/directions/vneshneekonomicheskaya_deyatelnost/dostup_na_vneshnie_rynki_i_zashchitnye_mery/reestr_ogranich_mer/)

6 URL: [https://www.economy.gov.ru/material/directions/vneshneekonomicheskaya\\_deyatelnost/dostup\\_na\\_vneshnie\\_rynki\\_i\\_zashchitnye\\_mery/reestr\\_ogranich\\_mer/](https://www.economy.gov.ru/material/directions/vneshneekonomicheskaya_deyatelnost/dostup_na_vneshnie_rynki_i_zashchitnye_mery/reestr_ogranich_mer/)

*DS554: United States – Protective measures for steel and aluminum products (Russia)*

On June 29, 2018, Russia has submitted a request to the DSB to consult with the U.S. on measures on steel and aluminum products imposed in spring 2018.<sup>1</sup> According to Russia, the U.S. imposed these measures in violation of the GATT 1994 and the Agreement on Special Protective Measures: it granted advantages and privileges to some countries that did not apply to other countries, imposed import restrictions in addition to duties, taxes or other charges through quotas, did not justify the imposition of emergency measures, did not send a written notice asap, did not provide opportunity for consultations, and did not provide the U.S. with the necessary information about the measures. In 2017, the share of exports of Russian steel and aluminium to U.S. in the Russian exports of this commodity amounted to 13% and to 32% in the U.S. imports.<sup>2</sup>

Similar disputes against the U.S. have been initiated by China (DS544), India (DS547), the EU (DS548), Canada (DS550), Mexico (DS551), Norway (DS552) and Switzerland (DS556), most of which Russia has joined. As of November 2018, the AP activities were underway. In 2023, the U.S. objected to Russia's request that the AP be suspended, but the AP has been suspended since June 23, 2023. If the AP is suspended for more than 12 months, its authority should lapse. Russia wants to ensure that special safeguard measures are applied in accordance with WTO rules, in particular, that non-discrimination regime is respected, if the U.S. proves that imports of contested goods are a threat to domestic industry, such measures should be imposed against all countries. Russia also wants to ensure that countries do not invoke national security exceptions when imposing trade-restricting measures, especially from specific countries.

*The 2023 changes in WTO trade disputes involving Russia a defendant*

*DS604: Russia – Certain measures on domestic and foreign goods and services (EU)*<sup>3</sup>

On July 22, 2021, the EU submitted a request to the DSB to consult with Russia on measures that result in discrimination of foreign suppliers by Russian state-owned companies.<sup>4</sup> The EU is challenging Russian measures relating to non-governmental procurement by a wide range of government-related entities that are not public institutions (including state-owned enterprises and state trading enterprises), such as price preferences, non-automatic prior authorization and minimum quotas for domestic products in procurement of state-owned enterprises. On February 22, 2022, the AP started its work, but on March 8, 2022, it suspended its activities for an indefinite period of time at the request of the EU. One year later, in 2023, full powers of the AP have expired. Thus, the EU did not prevail in this dispute.

<sup>1</sup> URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds554\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds554_e.htm)

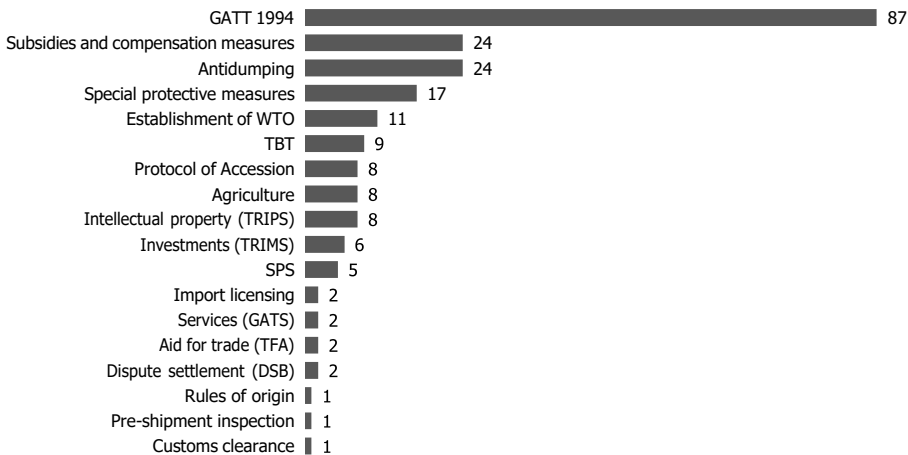
<sup>2</sup> Data bank UN COMTRADE. URL: <http://comtrade.un.org/>

<sup>3</sup> URL: [https://www.vavt-imef.ru/wp-content/uploads/2021/10/Monitoring\\_74.pdf](https://www.vavt-imef.ru/wp-content/uploads/2021/10/Monitoring_74.pdf)

<sup>4</sup> URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds604\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds604_e.htm)

### *Trade disputes involving Russia as a third party since 2023*

In 2023 Russia joined 5 WTO trade disputes (DS610; DS611; DS616; DS617 and DS618) as a third party; the total number of such disputes reached 102. Most often Russia joins disputes on measures affecting agricultural and food products, metallurgy, automobile and aircraft industry, chemical industry, wood and wood products, renewable energy sources (RES). *Fig. 3* shows the distribution of WTO dispute agreements to which Russia joined as a third party. It is already a tradition that most disputes are related to GATT, as well as to Agreements on Antidumping and Subsidies and Countervailing Measures. In addition, Russia shows interest in violations of the Agreement on Special Protective Measures and the Agreement Establishing the WTO, etc.



*Fig. 3.* Topics on WTO dispute agreements to which Russia has joined as a third party by the end of 2023

Source: Own estimates based on WTO official website: URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/dispu\\_by\\_country\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/dispu_by_country_e.htm)

#### *DS610: China – Measures related to trade of goods and services (EU)*

On January 27, 2022, the EU submitted a request to DSB to consult with China on measures regarding China's trade in goods and services with Lithuania.<sup>1</sup> The AP works since April 18, 2023. In 2021, importers of Lithuanian goods/goods transiting through Lithuania started to face restrictions in customs clearance of goods for import to China, in particular, having IT system errors; blocking of containers in Chinese ports; inability of Chinese customs authorities to process customs clearance requests in a timely manner. Same happened to services. Since 2021, Chinese customs authorities have often refused without proper justification to clear shipments of various goods covered by sanitary and phytosanitary (SPS) certificates issued by Lithuanian authorities. According to the

<sup>1</sup> URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds610\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds610_e.htm)

EU, China discriminates SPS measures, which represent a disguised restriction of international trade.

On July 4, 2023, the EU and China agreed on arbitration procedures under Article 25 (Arbitration) of the URPGSD for Multilateral Provisional Appeal Arbitration Agreement (MPIA) to come into effect, which will be the basis for the arbitrator's decision on appeals in this dispute if the AP is unable to consider them due to its crisis. The AP report is not expected until H2 2024.

Russia's interest in participating in the dispute is due to its practice of participating in disputes over SPS measures. Russia had to bring measures in line with WTO rules and regulations in the EU dispute over SPS measures on live pigs, pork and pork products from the EU (DS475).<sup>1</sup> Russia participated as a defendant in a dispute initiated by Ukraine on measures to restrict the import and transit of certain Ukrainian goods (DS532)<sup>2</sup> and as a plaintiff in a dispute against Ukraine on measures related to trade in goods and services (DS525)<sup>3</sup>, including transit.

*DS611: China- Protection of intellectual property rights (EU)*

On February 18, 2022, the EU submitted a request to DSB to consult with China on measures to protect intellectual property rights.<sup>4</sup> According to the EU, by failing to publish certain judgments on the measures and by failing to provide the EU with information on the judgments upon request, China violated Article 63 (Transparency) TRIPS.<sup>5</sup> The AP works since the end of January 2023. On July 4, 2023, the parties agreed on arbitration procedures under Article 25 (Arbitration) URPGSD to give effect to the MPIA<sup>6</sup> for the arbitrator to decide appeals during the AB crisis.

The EU challenges China's policy implying that Chinese courts ban patent owners from asserting their TRIPS rights in other jurisdictions. Fines are foreseen in case of infringement. This policy was first introduced by the decision of the Supreme People's Court of China (SPC) of August 28, 2020 with regard to the case Huawei v. Conversant. Bans were then approved in a series of decisions by Chinese courts in other cases. China does not apply these laws in a uniform, impartial and reasonable manner. In the EU's view, these measures are inconsistent with China's obligations under TRIPS and China's Protocol of Accession to the WTO.

The interest of Russia's participation in disputes on protection of intellectual property rights is due to involvement in such disputes and the study of TRIPS enforcement. Russia has joined 8 WTO trade disputes concerning TRIPS violations. Moreover, the legislation related to protection of property rights in China directly affects Russian companies in high technologies.

<sup>1</sup> URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds475\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds475_e.htm).

<sup>2</sup> URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds532\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds532_e.htm).

<sup>3</sup> URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds525\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds525_e.htm).

<sup>4</sup> URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds611\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds611_e.htm).

<sup>5</sup> Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS, Trade-Related Intellectual Property Rights).

<sup>6</sup> MPIA, Multi-Party Interim Appeal Arbitration Arrangement.

*DS616: EU – Countervailing and anti-dumping duties on cold-rolled stainless steel flat products from Indonesia (Indonesia)*

On 24 January 2023, Indonesia requested the DSB for consultations with the European Union with respect to countervailing and anti-dumping measures imposed by the European Union on imports of stainless-steel cold-rolled flat products from Indonesia.<sup>1</sup> AP started its investigation since September 2023. Indonesia claimed that the countervailing measures at issue appear to be inconsistent with WTO.

The most outstanding points are: how the EU determines that nickel ore mining companies are public bodies; the EU is of opinion that provision of land by the Indonesian government is a specific subsidy and the EU decides to compensate for damages through countervailing measures on nickel ore. The EU did not take into account differences in price comparability as required by Article 2.4 (Determination of dumping) of the Anti-Dumping Agreement. The EU deducted selling and administrative expenses and notional profit from the export price for export sales through tied traders, but did not make the same calculation for domestic sales. The EU did not specify what information was needed for a fair comparison.

The interest of Russia's participation in this dispute is primarily due to the fact that a large number of anti-dumping, countervailing and special protection measures (mainly by the US, EU and Ukraine) are in force against Russian exporters, especially in the metallurgical and chemical industries. Such measures often reach levels of prohibitive duties. In accordance with the European Commission's implementing regulation 2022/2068 from October 27, 2022 to October 26, 2027, anti-dumping duties are applied to Russian exporters based on review results:<sup>2</sup> for PJSC Severstal 34%; for JSC MMK 18.7%; for other Russian producers 36.1%. The measure was first introduced by the EU in July 2016. 5 out of 8 WTO disputes initiated by Russia and 1 out of 11 in which Russia is a defendant are related to anti-dumping measures.

*DS617: United States – Anti-dumping measures against oil country tubular goods (OCTG) from Argentina (Argentina)*

On 17 May 2023, Argentina submitted a request to DSB for consultations with the United States with respect to the definitive anti-dumping measure imposed on oil country tubular goods (OCTG) from Argentina, and certain provisions of the United States' legislation regarding cross-cumulation of imports in assessing injury caused by imports in anti-dumping and countervailing duty investigations.<sup>3</sup> The AP works since October 26, 2023. The dispute concerns U.S. antidumping measures on OCTG imports from Argentina, Mexico, and Russia. In May 2022, the U.S. imposed anti-dumping duties on Argentine OCTG based on a weighted average margin of 78.3% for Siderca SAIC and other Argentine exporters. According

<sup>1</sup> URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds616\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds616_e.htm)

<sup>2</sup> URL: [https://www.economy.gov.ru/material/directions/vneshneekonomicheskaya\\_deyatelnost/dostup\\_na\\_vneshnie\\_rynki\\_i\\_zashchitnye\\_mery/reestr\\_ogranich\\_mer/](https://www.economy.gov.ru/material/directions/vneshneekonomicheskaya_deyatelnost/dostup_na_vneshnie_rynki_i_zashchitnye_mery/reestr_ogranich_mer/)

<sup>3</sup> URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds617\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds617_e.htm)

to the complainant, these measures violate the Anti-Dumping Agreement and GATT 1994, in particular because the U.S. failed to provide sufficient evidence to initiate an investigation, demonstrate a causal link between the imports under consideration and the alleged harm to the domestic industry to ensure that harm caused by other factors was not attributable to dumped imports.

The interest of Russia's participation in this dispute is primarily due to the fact that Russian exporters are also subject to anti-dumping and countervailing duties on oil country tubular goods. Anti-dumping duties<sup>1</sup> are applied against Russian exporters by the United States from November 21, 2022 to November 20, 2027: for JSC OMK – 11.70%, for PJSC TMK – 184.21% and for other Russian producers – 11.87%. In 2022, Russian exports of tubes under TNVED codes 7304, 7305, 7306, which include oil country tubular goods, to the U.S. amounted to \$87.4 mn or 6.2% of Russia's exports of these goods and 0.7% of U.S. imports of these goods.<sup>2</sup>

*DS618: EU – Countervailing Duties on Imports of Biodiesel from Indonesia*

On 11 August 2023, Indonesia requested DSB for consultations with the European Union with respect to the definitive countervailing duties on imports of biodiesel from Indonesia,<sup>3</sup> as well as the underlying investigation that resulted in the imposition of these duties. The AP started working since end of November. According to the plaintiff, the EU measures are inconsistent with the Agreement on Subsidies and Countervailing Measures and GATT 1994 with respect to the determination of subsidies for the oil palm plantation fund; the alleged state support for the supply of crude palm oil; the findings of threat of material injury and causation; and the rejection of the price bid.

Russia shows interest to participate in the dispute not only because of practicing disputes over safeguard measures, but also because Russia faces anti-dumping measures and investigations to a large extent. As of the end of 2023, the EU had 11 anti-dumping measures in force against Russian exporters, mainly in relation to goods from the metallurgical and chemical industries.<sup>4</sup> Besides, Russia is interested in RES topic.

***The 2023 changes on 17 unique WTO disputes involving Russia as a third party before 2023***

*DS456: India – Certain measures relating to solar cells and solar modules (USA)*

On July 13, 2023, India and the United States notified the DSB in compliance with Article 3.6 (General Provisions) of the URPGSD that they had reached a mutually agreeable solution in the U.S. v. India dispute over India's measures related to requiring a share of domestic components for solar cells and solar

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1 URL: [https://www.economy.gov.ru/material/directions/vneshneekonomicheskaya\\_deyatelnost/dostup\\_na\\_vneshnie\\_rynki\\_i\\_zashchitnye\\_mery/reestr\\_ogranich\\_mer/](https://www.economy.gov.ru/material/directions/vneshneekonomicheskaya_deyatelnost/dostup_na_vneshnie_rynki_i_zashchitnye_mery/reestr_ogranich_mer/)

2 URL: <https://www.trademap.org/>

3 URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds618\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds618_e.htm)

4 URL: [https://www.economy.gov.ru/material/directions/vneshneekonomicheskaya\\_deyatelnost/dostup\\_na\\_vneshnie\\_rynki\\_i\\_zashchitnye\\_mery/reestr\\_ogranich\\_mer/](https://www.economy.gov.ru/material/directions/vneshneekonomicheskaya_deyatelnost/dostup_na_vneshnie_rynki_i_zashchitnye_mery/reestr_ogranich_mer/)

modules.<sup>1</sup> India demanded that solar plant designers or users apply domestically manufactured solar cells and modules in order to participate in the National Solar Mission program. Solar plant designers or users receive certain benefits (including subsidies) due to guarantee of long-term electricity tariffs.

According to U.S., this violates the principle of national treatment, as it results in a less favorable mode for foreign goods compared to domestic ones. In addition, these measures constitute prohibited subsidies when using domestic rather than imported goods.

Russia shows interest towards this dispute because the share of Russian exports of these goods to India in Russia's total exports of such goods exceeds 5%. It is also important for Russia to develop alternative forms of energy. Moreover, Russia is interested in practice of participating in disputes over provision of subsidies, including in connection with the use of domestic goods in the production.

*DS510: Unites States – Certain measures relating to renewable energy sector (India)*

Based on results of the dispute India against the U.S. over claiming a share of domestic components and subsidies under state incentive programs when using domestic components in RES (RES cost recovery, self-generation, water power and solar photovoltaic programs) and tax/credit initiatives for ethanol and biodiesel production,<sup>2</sup> the AP concluded in June 2019 that measures did not meet the provision of GATT 1994 Article III:4 (National domestic taxation and regulatory regime), as they provide an advantage for using domestic goods, thereby violating the MFN principle for similar imported goods. The United States and India have submitted their appeal.

On July 13, 2023, India and the U.S. reached a mutually acceptable solution, withdrew their appeals, and the dispute was terminated.

The results of this dispute, as well as a similar dispute between the United States and India (DS456)<sup>3</sup>, to which Russia has also joined, are important for Russia, on the one hand, due to the possibility of increasing exports of the goods under consideration. The share of Russian exports of such goods to India in Russia's total exports of such goods declined from nearly 8% in 2013 to 5% in 2016.<sup>4</sup> On the other hand, due to high importance of alternative energy development for Russia, it is necessary to take into account issues of using a share of domestic goods in production, as well as subsidies that may be considered as violating WTO rules and regulations.

*DS541: India – Measures relating to exports (USA)*

In October 2019, the AP reported on the U.S. dispute against India over export subsidies that the U.S. believes are inconsistent with Art. 3.1(a) and 3.2 (Prohibition) of the Agreement on Subsidies and Countervailing Measures.<sup>5</sup> According to the

<sup>1</sup> URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds456\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds456_e.htm)

<sup>2</sup> URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds510\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds510_e.htm)

<sup>3</sup> URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds456\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds456_e.htm)

<sup>4</sup> Data bank UN COMTRADE. URL: <http://comtrade.un.org/>

<sup>5</sup> URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds541\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds541_e.htm)

U.S., India provides subsidies depending on export performance through export support for capital goods, special economic zones, duty-free imports for exporter programs and technology parks for equipment and technology in electronics. The AP recommended India to withdraw the disallowed subsidies within 180 days. India appealed to the AB. On July 13, 2023, India and the U.S. reached a mutually acceptable solution and the dispute was terminated.

Russia's accession to this dispute is probably driven not so much by trade interest (Russia's exports to India of all goods in 2017 amounted to about 2% of Russia's total exports) as by interest in applying various export support programs and their possible challenge under WTO trade dispute settlement system.

*DS544; DS552; DS556; DS564: United States – Certain measures on steel and aluminium products (China, India, Norway, Switzerland, Turkey)*

On December 9, 2022, the AP submitted reports on disputes initiated by China, Norway, Switzerland and Turkey against the United States over additional U.S. import duties on steel (25%) and aluminum (10%) products (DS544<sup>1</sup>, DS552<sup>2</sup>, DS556<sup>3</sup> and DS564<sup>4</sup>). The AP chose more simple way of showing that duties violated GATT 1994, but did not consider whether they were special protective measures, although the challenged measures bear marks of special protective measures. In particular, the AP stated that those measures were not "adopted during the war or other public emergency in international relations" under GATT Article XXI(b) (iii) 1994, and the inconsistency of the challenged measures with GATT 1994 was not justified under GATT Article XXI(b)(iii). The U.S. is not happy with the decision, noting that national security cannot be considered in WTO dispute settlement, however, the WTO dispute settlement system needs fundamental reform.<sup>5</sup>

On January 26, 2023, the U.S. notified the DSB of its plan to appeal to the AB. On July 13, 2023, India and the US reached a mutually acceptable solution.

Russia, as a respondent, won a dispute against Ukraine in April 2019 for reasons of national security on measures restricting transit (DS512).<sup>6</sup> Russia also filed a related complaint against the U.S. with the DSB in late June 2018 regarding these measures (DS554).

*DS546: United States – Safeguard measure on imports of large residential washers (South Korea)*

On April 28, 2023, the U.S. and South Korea reached a mutually acceptable settlement of a dispute over special safeguard measures on large residential washing machines and their components, which Korea argued, violated the Agreement on Special Safeguard Measures and GATT 1994.<sup>7</sup> In particular, the U.S. was unable to

1 URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds544\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds544_e.htm)

2 URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds552\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds552_e.htm)

3 URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds556\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds556_e.htm)

4 URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds564\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds564_e.htm)

5 URL: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2022/december/statement-ustr-spokesperson-adam-hodge>

6 URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds512\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds512_e.htm)

7 URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds546\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds546_e.htm)



provide a reasoned explanation for growth in imports that was due to “unforeseen events” and was a result of commitments made by the U.S. In February 2022, the AP report found U.S. violations but rejected several Korean claims.

Russia participated in the dispute as a third party because special safeguard measures imply action against all countries, including Russia. Russia needs the practice of participating in disputes against the United States over safeguard measures because it was Russia who initiated the dispute (DS554).

*DS558: China – Additional duties on certain products from the United States;*

*DS561: Turkey – Additional duties on certain products from the United States;*

*DS585: India – Additional duties on certain products from the United States (USA)*

In 2023, the AP reported on China<sup>1</sup> and Turkey<sup>2</sup> disputes over additional duties (increases in import tariffs on U.S. goods as retaliation for the U.S. imposition of special safeguard measures in term of respective duties on steel and aluminum products).

The AP ruled that the challenged China measure is a measure of additional duties. The US measures were approved under GATT Article XXI (Security Exceptions) 1994; the Agreement on Special Safeguards Measures did not apply to these measures and accordingly Article 8.2 (Level of Concessions and Other Obligations) of the Agreement on Special Safeguards Measures and GATT Article XIX:3(a) (Emergency Measures on Imports of Certain Products) 1994 do not apply to China’s additional duty measures.

These measures by China are inconsistent with GATT 1994 Articles I:1 (General Most-Favored-Nation Treatment) and II:1(a) and II:1(b) (List of Concessions), because China imposed import duties on U.S. goods higher than on similar products from other countries and the bound level. On September 18, 2023, China appealed to the AB, and Turkey appealed on January 26, 2024. The parties reached a mutually acceptable solution on July 13, 2023 on a similar dispute initiated by India.<sup>3</sup>

Russia shows interest in the disputes is primarily because the U.S. has filed a complaint on similar measures against Russia (DS566), which the AP was still working in 2023.<sup>4</sup> The disputes are related to measures imposed by countries in response to additional duties imposed by the U.S. on steel and aluminum products, which are not applied to all countries and impose a burden on Russian exporters in particular.

*DS577: United States – Anti-dumping and countervailing measures on ripe olives from Spain (EU)*

In January 2022, the United States informed that it intended to implement the recommendations and rulings of the DSB in compliance with its WTO obligations related to a dispute of the EU against U.S. on anti-dumping and countervailing measures on ripe olives from Spain.<sup>5</sup> The reasonable time period expired on January

1 URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds546\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds546_e.htm)

2 URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds558\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds558_e.htm)

3 URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds561\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds561_e.htm)

4 URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds585\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds585_e.htm)

5 URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds566\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds566_e.htm)

14, 2023. The U.S. informed that it had implemented the recommendations of the DSB. On July 14, 2023, the EU submitted a request to set up AP for a compliance. The AP report is expected in Q1 2024.

Russia's interest can be explained because it has also filed an anti-dumping complaint against the United States (DS586), which was still under consultation in 2023.<sup>1</sup> Russia often joins disputes over countervailing measures and subsidies because Russia is subject to a large number of safeguard measures that have a significant negative impact on Russian exports.

*DS582; DS588: India – Tariff treatment on certain goods in the information and communications technology sector (EU, Chinese Taipei); DS584: India – Tariff treatment on certain goods (Japan)*

On April 17, 2023, the AP submitted reports on disputes regarding the tariff treatment that India grants to a number of goods in the information and communication technology (ICT) sector initiated by the EU<sup>2</sup>, Japan<sup>3</sup>, and Chinese Taipei.<sup>4</sup> Upon accession to the WTO, India bound the import duty rate on the disputed goods at 0%, but the applicable import duty on these goods is as high as 20%.

The AP rejected India's claims that its tariff obligations are set forth in the Information Technology Agreement (ITA), finding that ITA is not the source of India's legal obligations in these disputes because the WTO and URPGSD Agreements do not cover the ITA.

The AP found that India's tariff treatment of the disputed goods was inconsistent with GATT Article II:1 (List of Concessions) 1994, because they were subject to import duties exceeding those specified in India's Schedule, a tariff treatment less favorable than that provided for in its Schedule. In 2023, appeals were filed to the AB.

Russia's priority policy in the ICT sector, as well as study of disputes over tariffs exceeding bound levels determined Russia's participation in these disputes. The trade interest in the disputed goods is not so high and according to data for 2019, the share from Russia to India in the total Russian exports of these goods is about 1.4%, and in Indian imports is 0.1%.<sup>5</sup>

*DS583: Turkey – Certain measures concerning the production, importation and marketing of pharmaceutical products (EU)*

As for EU vs Turkey dispute over measures concerning pharmaceutical products,<sup>6</sup> the plaintiff argued that Turkey's measures (localization requirement, technology transfer requirement, ban on imports of localized products and determination of priorities) go against provisions of GATT 1994 on national treatment of domestic taxation and regulation, publication and application of trade rules, general abolition of quantitative restrictions; Trade-Related Investment

1 URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds577\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds577_e.htm)

2 URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds586\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds586_e.htm)

3 URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds582\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds582_e.htm)

4 URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds584\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds584_e.htm)

5 Data bank UN COMTRADE. URL: <http://comtrade.un.org/>

6 URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds583\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds583_e.htm)

Measures Agreements (TRIMS) on national treatment and quantitative restriction; Agreements on Subsidies and Countervailing Measures on prohibited subsidies; and TRIPS Agreements on national treatment, patentable subject matter, granted rights and protection of confidential information.

On April 25, 2023, Turkey complied with arbitration award through a series of legal provisions. In May 2023, a new Alternative Regulation on Drug Reimbursement was published.

Russia's interest in participating in the dispute is related to importance of the pharmaceutical market and cooperation in this area with India and the practice of participating in disputes over localization requirements, which in other areas have also been encountered in Russia.<sup>1</sup>

*DS589: China – Measures concerning the importation of canola seed from Canada (Canada)*

As for dispute Canada vs China concerning measures affecting imports of canola seed for processing and consumption from Canada,<sup>2</sup> the authority of the AP expired on August 31, 2023. Canada's main claim was that China had suspended or restricted imports of canola seed from Canada, referring to detection of quarantine pests in canola seed shipments.

Russia is one of the largest producers and exporters of rapeseed. In 2018, the volume of Russian exports of this product exceeded 490.000 tons, resulting in significant trade interest of Russia's participation in this dispute. Besides, practice of participation in SPS disputes is important for Russia.

*DS590: Japan – Measures related to the exportation of products and technology to South Korea (South Korea)*

On March 23, 2023, plaintiff withdrew its complaint in a dispute initiated by South Korea against Japan regarding measures, including licensing policies and procedures adopted by Japan that plaintiff believes restrict exports of fluorinated polyimide, polymer resist, and hydrogen fluoride, as well as related technology destined for Korea.<sup>3</sup>

Russia's participation in this dispute can be explained by importance of importing goods and technology for production of smartphones, television displays and semiconductors and studying practice of disputes on the relevant restrictions. Disputes over trade restrictions on high-tech goods are important for Russia in the context of sanctions.

*DS591: Columbia – Anti-dumping duties on frozen fries from Belgium, Germany and the Netherlands (EU)*

On January 20, 2023, Colombia announced that it intends to comply with the arbitrators' decision to bring measures into conformity with WTO rules and regulations in the EU dispute against Colombia over anti-dumping duties on

<sup>1</sup> URL: <https://www.iep.ru/files/text/trends/2019/04.pdf>

<sup>2</sup> URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds589\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds589_e.htm)

<sup>3</sup> URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds590\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds590_e.htm)

imports of frozen fries originating in Belgium, the Netherlands and Germany.<sup>1</sup> In this respect, Colombia published the Ministerial Resolution No.286 in 2023. Colombia believes that these anti-dumping duties should be maintained in terms of the amended and reduced dumping margins. This is the first arbitration based on the MPIA.

Russia is interested in disputes over safeguard measures taking into consideration substantial trade interest and practice of participation and study of enforcement of WTO norms and provisions, since there are many safeguard measures acting in Russia that have a significant negative impact on Russian exports. The procedure for replacing data from exporters subject to anti-dumping investigations with data from third-country producers has been challenged by Russia in a number of disputes (against the EU – DS474, DS494, DS521, against Ukraine – DS493, against the USA – DS586).

*DS595: EU – Special safeguard measures on certain steel products (Turkey)*

As for Turkey's dispute against the EU regarding special safeguard measures on imports of steel products and the related investigation<sup>2</sup>, the EU stated that it had fully implemented the recommendations of the DSB (Commission Regulation (EU) 2023/104, which entered into force on January 14, 2023 and amended Commission Regulation (EU) 2019/159).

Turkey claimed that the investigation and measures were inconsistent with the Agreement on Special Safeguard Measures and GATT 1994. In particular, the EU failed to make credible findings as to the unforeseen events and how they resulted in growth in imports of respective products, threatening to cause severe damage to domestic producers; failed to correctly identify the categories of products, etc.

Russia's participation in the dispute can be explained by a significant trade interest (in 2019 exports of commodity groups 72 and 73 from Russia to the EU evidenced 28.3% and 12.9%, respectively, while in total EU import of these groups – 3.6% and 0.4%, respectively<sup>3</sup>), as well as by special safeguard measures applying to all countries, including Russia and having a significant negative impact on Russian exporters.

*DS597: United States – Origin marking requirements (Hong Kong)*

As for dispute between Hong Kong and USA regarding measures relating to origin marking requirements applied to goods produced in Hong Kong,<sup>4</sup> on January 26, 2023, the United States have submitted appeal to AB. In the United States, goods produced in Hong Kong should bear marking indicating their origin is China as from 2020. According to Hong Kong, these measures violate the WTO norms and rules, as the United States apply a more discriminatory treatment towards goods from Hong Kong compared to similar goods from other countries;

<sup>1</sup> URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds591\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds591_e.htm)

<sup>2</sup> URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds595\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds595_e.htm)

<sup>3</sup> Data bank UN COMTRADE. URL: <http://comtrade.un.org/>

<sup>4</sup> URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds597\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds597_e.htm)

The United States do not apply its origin labeling requirements in a uniform, impartial, and reasonable manner.

Russia's willingness to participate in the dispute is due to its practice of participating in disputes over rules of origin, as well as in disputes where the defendant refers to national security issues that are not subject to consideration in the WTO.

Participation in this dispute may also be relevant for Russia in terms of the export of the Republic of Crimea and other regions and sanctions, including by the United States, against goods originating from this Russian region. This may be the reason why the U.S. rejected Russia's request to join the consultations.

*DS598: China – Anti-dumping and countervailing duty measures on barley from Australia (Australia)*

On April 11, 2023, at the request of the parties, the AP suspended work on the Australia v. China dispute over anti-dumping and countervailing duty measures on barley from Australia.<sup>1</sup> On August 11, 2023, Australia and China reached a mutually acceptable solution.

Russia is one of the leading barley exporters. In 2019, Russia's barley exports reached \$763.6 mn, accounting for nearly 11% of global barley exports. Russia has a significant trade and systemic legal interest in this dispute. A large number of anti-dumping and countervailing measures are in place against Russian exporters of ammonium nitrate, including by Australia.

*DS601: China – Anti-dumping measures on stainless products from Japan (Japan)*

On June 19, 2023, the AP submitted a report relating to dispute Japan vs China on anti-dumping measures for stainless steel bars, hot rolled coil and hot rolled sheet from Japan.<sup>2</sup> The AP rejected a number of Japan's claims. The DSB obliged China to bring anti-dumping measures into compliance with the WTO, in particular on causally related import and losses, price effects analysis and consideration of domestic market share, price and sales dynamics, capacity utilization and ending stocks, domestic consumption, pre-tax profits and return on investment. In August 2023, China intends to implement recommendations; reasonable period of time is 9 months and 10 days (until May 8, 2024).

Russia is interested in disputes over safeguard measures, especially in relation to metallurgical goods, as Russia is subject to a significant number of anti-dumping measures, in particular against companies in the metallurgical industry.<sup>3</sup>

*DS605: Dominican Republic – Anti-dumping measures on corrugated steel bars (Costa Rica)*

Costa Rica challenged the Dominican Republic's anti-dumping investigation, in particular the dumping, the calculation of the dumping margin, damages, etc.<sup>4</sup>

<sup>1</sup> URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds598\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds598_e.htm)

<sup>2</sup> URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds601\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds601_e.htm)

<sup>3</sup> URL: <https://www.iep.ru/files/text/trends/2019/04.pdf>

<sup>4</sup> URL: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds605\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds605_e.htm)

On July 27, 2023, the AP submitted its report. It supported a number of claims lodged by Costa Rica regarding dumping and calculation of dumping margins in the Dominican investigation, however, it rejected several claims. The AP noted that comparison of export price and fair value should be made for the sales closest in time; the methodology should reasonably identify sales that are above cost at the time of sale; the analysis of economic indicators, in particular price, should be objective; the fact of losses from alleged dumped imports should be well-founded and publication of decisions should be timely. The AP recommended that the Dominican Republic bring the measures into conformity with WTO rules and regulations. On September 18, 2023, the defendant filed an appeal with the AB.

Russia actively joins disputes over imposition of anti-dumping measures in violation of WTO rules and regulations. Besides, Russia has a significant trade interest. In 2020, it exported \$279.2 mn worth of other bars made of iron or non-alloyed steel containing less than 0.25 wt% carbon, used for reinforcing concrete (HS code 721499), which constitutes 12.4% of global exports of these goods.