BUSINESSEUROPE

THE DIRECTOR GENERAL

Mr. Karel De Gucht
Commissioner for Trade
European Commission
200 Rue de la Loi
B-1049 Brussels
Belgium

27 November 2012

Dear Commissioner, Dear Karel,

I am writing to you to express BUSINESSEUROPE's concerns on the implementation by Russia of the WTO Accession Protocol and bilateral EU-Russia commitments. Russia's accession to the WTO earlier this year after 18 years of negotiations was strongly welcomed by the European business community. However, for Russia and other WTO members to fully realize the benefits of WTO accession, correct implementation of all commitments is crucial. Regrettably, a number of measures introduced by Russia are not only incompatible with the country's obligations under WTO, but also result in loss of market share for European companies.

In December 2011 Russia agreed on an ambitious programme that could help open the country to foreign investments, modernise and diversify its economy. BUSINESSEUROPE regrets to observe that, instead of an acceleration of the necessary reforms, Russia has since then adopted protectionist measures. The annex attached to this letter includes cases indicative of the concerns of European companies.

Strict implementation of WTO commitments will improve the business environment while increasing stability and predictability, factors that are essential to attract investments. BUSINESSEUROPE calls on the Commission to closely monitor the implementation of the WTO accession commitments in Russia. The European Commission should work effectively with the Russian authorities to repeal inconsistences with Russian WTO commitments immediately. If a rapid solution cannot be reached at the bilateral level, the European Commission should use all instruments available at its disposal, including WTO legal remedies.

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In this light, BUSINESSEUROPE congratulates the Commission and Member States' efforts to successfully resolve the issue of transport restrictions that violated the provisions of the CMR Convention and the GATS through dialogue with the Russian Federation. As a result of the agreement reached between Russia and three EU Member States (Poland, Lithuania and Latvia) goods that are imported to Russia from these Member States will be subject to bilateral permits, therefore a CMR note will be considered the main transport document for the verification of the needed permits. The Commission should continue to observe the implementation of the new rules that entered into force on 1 October 2012.

I hope you will take our concerns into consideration.

Yours sincerely,

Philippe de Buck

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- Recycling fee for vehicles

On 1 September 2012 the mandatory car recycling scheme that was approved in the context of the Federal Law on Production and Consumption Waste entered into force. A recycling fee is not only imposed on the local production but also on the import of used and new cars. The following types of wheeled vehicles are included in the scheme: passenger cars, light commercial vehicles, trucks and buses. The Russian government also seems open to discuss the possibility of implementing the recycling fee to agricultural machines.

Among other exceptions, in order for a vehicle to be exempted from the fee, the manufacturing company will need to prove that it assumes responsibility for the safe disposal of the vehicle when it reaches the end of its useful life. To fulfil this obligation, car manufacturers in Russia will either need to set up vehicle pick-up points at their own expense or negotiate contracts with third companies. The Ministry of Industry and Trade will create a registry which will include all companies listed responsible for the safe disposal of these vehicles.

This measure constitutes an effort by the Russian government to counterbalance the effect that the reduction of import duties on cars, as scheduled in the WTO Accession Protocol, will have on domestic manufactures. This fee is WTO incompatible and poses serious administrative burden and costs for European car manufacturers in Russia as well as for importers. It is estimated that the losses for European companies will amount to more than €1 billion per year.

- Import of roundwood from Russia and export duties on paper and paperboard

Russia is a key trade partner for the EU forest industry. However, softwood roundwood export from Russia to the EU has stopped due to administrative inconsistency in Russia. EU companies are facing the following restrictions:

1. Russia is restricting export of roundwood through the listing of companies which have exporting and harvesting rights. These companies also have no debts in harvesting payments. The existence of this list deprives EU companies from their right to choose their suppliers and is a practice that should be abolished. Russia nevertheless is not willing to revise this list before August 2013.

2. An EU license officer issues quota authorisations based on species (pine or spruce), not on tariff codes. This species-based approach is essential for the forest industry. However, the Russian license officer issues export licences only according to tariff codes. This system requires additional applications (4 codes per species) which significantly increases administrative burden for EU importers. Export licenses should be based on species including all tariff codes, as Russia already does for instance in export of steel.

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3. In addition, EU importers must authenticate the quota authorisation at an EU based notary, translate the authorisation in Russian and again authenticate the translated authorisation at a Russian based notary. This administrative arbitrary must end. The quota authorisation is issued on a template, which is in one EU language and in Russian. It is approved in the EU-Russia Wood quota protocol as an annex.

Furthermore, since August 2012 Russia has increased import duties on 15 tariff lines for paper and paperboard products. According to Russia´s accession protocol the import duty should be 5%, but it was increased to 15%. Russia has no production of listed products and is fully dependent on imports. Estimates of the European paper industry show that about €100 million exports will be affected.

- Beer

Russia is an important market for the European beer industry, both with regard to exports as well as the share of investments. The regulatory frameworks of Russia and the Customs Union (Russia, Kazakhstan and Belarus) in which European investors have to operate however, present certain challenges:

1. The proposal to ban beer in PET bottles across the Customs Union is the main concern of the European brewery industry. Given that beer in PET bottles represents approximately 45% of the market in Russia and 85% in Belarus, a ban will have serious repercussions not only for brewery companies but also for related up- and down-stream industries. Significant efforts have been made in the past years by the brewery industry to demonstrate that there are no health and safety issues related to beer in PET bottles. Even though Customs Union authorities appear to be more open to discuss the exemption of beer from the PET ban, nothing is certain yet.
2. The Customs Union Technical Regulation proposes a new definition of beer which includes a requirement for an unprecedented high level of malt in beer (80%). This definition would limit opportunities to brew from other grains, such as maize, rye and wheat, obliging therefore brewery companies to re-label their products or change recipes. In addition, according to the proposal for the new definition the amount of additives and sugar in the finished products should be limited to 2%, which constitutes a barrier to craft beers and flavoured beers, such as Belgian ales.
3. The Russian federal law also suggests a new definition for beer. Since June 2012, a minimum malt requirement of 50% has been introduced, whereas a 20% malt requirement will be introduced as from 1 January 2013. The issue of the definition of beer becomes even more complicated given that if the Customs Union definition is adopted, then the Russian federal law definition will be overruled. This will create further administrative burden for brewery companies that will need to re-adapt in a second set of regulations within a short period of time.