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ACCESSION OF THE RUSSIAN FEDERATION

Information Regarding the Development of Foreign Trade Legislation of the Russian Federation

The Permanent Mission of the Russian Federation has submitted the following information regarding the development of foreign trade legislation of the Russian Federation since the last meeting of the Working party held on 16-17 December 1998.

Development of Foreign Trade Legislation in the Russian Federation

In accordance with the WTO practice with respect to acceding countries, the Russian delegation informs the Working Party on a regular basis of the development of the Russian Federation economy and of any changes in foreign trade regulations. See documents Nos. L/7410, WT/ACC/RUS/2, WT/ACC/RUS/9, WT/ACC/RUS/16, WT/ACC/RUS/27, WT/ACC/RUS/31/, etc.

Below is a brief review of the key foreign trade laws and regulations adopted in the Russian Federation between 15 November 1998 and 15 October 1999.

1. General Provisions

1.1 Taxation

Federal Law No. 192-FZ "On Immediate Measures Concerning Budget and Tax Policies" dated 29 December 1998 revised previously existing excise rates by increasing them by 25 per cent on average. The basic principle of Russian excise legislation, however, remained: excise rates are the same for Russian-made and foreign goods.

New designs for excise levy tags, the use of which is mandatory for alcoholic products, tobaccos and tobacco products, were introduced by Resolution No 1008 of the Government of Russia "On Excise Levy Marks" on 4 September 1999. This Resolution did not make any new changes to the previous procedure but merely summarized all developments in this sector since 1994.

Federal Law No. 154-FZ "On the Introduction of Amendments and Addenda to the First Part of the Tax Code of the Russian Federation" took effect on 9 July 1999. This Law specifies and provides details regarding a considerable number of the provisions of the Tax Code. For instance, Article 5 of the Law states that all and any changes to tax legislation shall come into force no earlier than a month after their official publication.

Federal Law No. 159-FZ “On Putting into Force the Budget Code of the Russian Federation” came into effect on 9 July 1999. According to this Law the Budget Code of the Russian Federation shall take effect on 1 January 2000.

These latter two are major achievements in terms of greater stability and transparency of fiscal and tax legislation of Russia.

1.2 Federal and regional authorities

Particular importance is attached to Federal Law No. 4-FZ “On Coordination of International and Foreign Economic Relations of the Subjects of the Russian Federation” dated 4 January 1999, which lays down the general procedure for maintaining foreign economic relations for the Russian Federation regions.

Federal Law No. 119-FZ “On the Principles and the Procedure for the Demarcation of the Objects of Jurisdiction and of the Powers Between the State Power Bodies of the Russian Federation and the State Power Bodies of the Subjects of the Russian Federation” dated 24 June 1999 details the mechanics of supremacy of the Constitution of the Russian Federation and federal laws over regional laws.

Presidential Decree No. 362 dated 18 March 1999 acquires particular significance in this context. The Decree suspended Resolution No. 645 of the Head of Administration of the Belgorod Oblast of 16 December 1998 restricting the export of unprocessed agricultural products from the Oblast, as it contradicted the Constitution and the Civil Code of the RF. It was suggested that the Head of the Belgorod Oblast Administration bring his decision into conformity with Russian legislation.

2. Market Access

2.1 Tariff Measures

Since December 1998 to date the Government of the Russian Federation adopted about 20 resolutions which adjust 595 import customs tariff rates. The large majority of these adjustments (580) were reductions (some of them considerable) of import customs tariff rates.

This reduction in rates concerned first and foremost unprocessed agricultural products, the crops or production of which are insufficient in Russia, and modern technology equipment. In addition, for the purposes of more effective customs payments collection, the number of tariff peaks was cut back dramatically.

It should also be noted that Resolution of the Government of the Russian Federation No. 235 dated 27 February 1999 terminated prematurely as of 1 March 1999 the 3 per cent import surcharge which had been introduced in July 1998 as a forced measure to safeguard the balance of payments.

In 1999, the Government of the Russian Federation took a series of decisions regarding the introduction of export tariffs. Export tariffs are a double-edged measure, but a necessity to increase the revenues of the federal budget of Russia. In view of the above, export duties are restricted to those goods, the exporters of which started gaining “super profits” due to the nearly fivefold escalation of the Ruble rate to the U.S. Dollar.

Thus, export duties were imposed in the amount of 5 per cent of the customs value on the export of certain types of fish and fish products, alcohol, oil and derivatives, a number of organic and non-organic chemical products, fertilizers, unprocessed leather, coniferous and deciduous timber, paper, ferrous, non-ferrous and precious metals. In order to satisfy the needs of the national market increased duty rates were fixed for some very small groups of commodities (precious metals scrap, seeds of oil-yielding plants, valuable varieties of hard-leafed timber). There are no export duties for finished products.

On the whole the export tariff has a purely fiscal function. According to Federal Law No. 36-FZ "On the Federal Budget for 1999" the ballpark estimate of the volume of revenues from import customs duties in 1999 is US\$3 billion, and US\$1.5 billion from export duties. The estimate for 2000 is US\$1.8 billion for import duties and US\$1.7 billion for export duties.

Another step towards liberalization of the access of foreign goods to the Russian market is Federal Law No. 104-FZ "On the Special Economic Zone in Magadan Region" dated 31 May 1999, according to which foreign goods imported to Magadan are exempted from customs payments.

Differentiated customs treatment is instrumental in the facilitation of market access for foreign goods (this issue is addressed in Resolution No. 908 of the Government, 8 August 1999). Order No. 450 dated 17 July 1999 and Order No. 573 of the State Customs Committee of the Russian Federation "On Amendments and Supplements to Order No. 450 of the State Customs dated 30 August 1999 establish a simplified procedure for customs value control for new automobiles imported by official dealers.

2.2 Non-Tariff Measures

Resolution of the Government of the Russian Federation No. 1539 of 25 December 1998 "On the Importation into and Exportation from the Russian Federation of Medicaments and Pharmaceutical Substances", according to which the import of medicines is performed under licenses issued by the Ministry of Trade of Russia (which were formerly issued by the Ministry of Health), whereas export of such goods does not require a license.

Resolution No. 18 of the Government of the Russian Federation "On Additional Measures for the State Regulation in the Procurement, Realisation and Export of the Wood of Valuable Forest Species" dated 5 January 1999 introduced automatic unrestricted licensing for export of valuable varieties of hard-leafed trees.

Resolution No. 37 of the Government of the Russian Federation "On the Realisation of the Agreement Between the Russian Federation and the European Community on Trade in Textile Goods" dated 11 January 1999 reduced the number of items subject to licensing for the purposes of textile exports to the EC and introduced an automatic licensing procedure in accordance with an earlier bilateral agreement.

By Resolution No. 609 of the Government of the Russian Federation "On Amending the Decision of the Government of the Russian Federation No. 1471 dated 7 December 1998" dated 7 June 1999 the Government simplified the procedure for licensing imports of tobacco and tobacco products, taking into account the recommendations expressed by Russia's trade partners. According to this Resolution licensing is not required for samples of tobacco and tobacco products imported for testing, analysis and certification.

Government Resolution No. 130 "On Supplies of and the Procedure for Distribution of Agricultural Products and Foodstuffs Provided in 1999 under Agreements with the United States Government and the European Union (amended and supplemented as of 18 June, 16 August 1999)" of

5 February 1999 imposed a temporary ban on export from Russia of agricultural products included in the humanitarian aid provided by the EC and the USA. This ban will be maintained throughout the period of such aid provision. Such was the requirement of the countries providing the humanitarian aid and is therefore one of Russia's international obligations.

For the sake of national interests of Russia Federal Law No. 61-FZ "On the Temporary Ban on the Imports of Ethyl Alcohol" dated 31 March 1999 introduced a ban on import of alcohol derived from any type of raw materials, from 1 May 1999 till 1 January 2002. Considering how important revenues from tax payments on strong alcoholic beverages production are for the federal budget of Russia, and considering also the continuous campaign to prevent illicit production of alcoholic beverages, the Russian delegation believes that the said Law is entirely consistent with provisions of Article XX of GATT-94.

In order to prevent the disintegration of the domestic market for oil derivatives of the Russian Federation (between May and August 1999 prices for gasoline, diesel fuel and fuel oil increased by 2.5 times, and the volume of exports of these products from Russia was equally augmented) and bearing in mind the strategic importance of fuel supplies for successful harvesting of agricultural products and accommodating the needs of Northern and distant regions of the Russian Federation, the Government of Russia took Resolution No. 866 "On Ensuring the Deliveries of Certain Types of Oil Products to Consumers in the Russian Federation" dated 30 July 1999 according to which, as a temporary measure, export of certain types of oil derivatives can be performed only after the monthly requirement of their supply to the national market has been fulfilled.

With the above tasks in mind Russia is currently in transition from the mechanism established by Resolution No. 866 to tariff regulation using increased export duties for oil derivatives.

2.3 Trade Remedies Measures

For the purposes of effective implementation of the provisions of the Federal Law No. 63-FZ "On the Measures for Protection of the Economic Interests of the Russian Federation in Foreign Trade in Goods" dated 14 April 1998 provided for special protective measures, antidumping and compensatory measures, three regulatory documents were developed and approved by the following Resolutions of the Government of the Russian Federation: (1) No. 183 "On the Special Features of Definition of Material Injury to a Branch of the Russian Economy as a Result of Dumping Imports" dated 16 February 1999; (2) No. 184 "On the Special Features of Definition of Material Injury to a Branch of the Russian Economy when a Foreign State (an Alliance of Foreign States) Subsidises Goods Imported to the Russian Federation, and Determination of the Amount of the Subsidy" dated 16 February 1999; and (3) No. 274 "On the Regulations for Conducting Investigations Prior to the Introduction of Special Protective Measures, Antidumping or Compensatory Measures" dated 11 March 1999.

The above documents allowed the creation a legal framework for the application of special protective measures, antidumping and compensatory measures in the Russian Federation which was earlier unavailable.

Provisional special duties for sugar imposed under the above Law as notified to the last Working Party were revoked effective 1 January 1999 for raw sugar and effective 15 February 1999 for white sugar.

Based on the preliminary results of a special investigation, the Government of the Russian Federation has introduced by Resolution No. 902 "On the provisional safe guards for the Protection of the Russian Manufacturers of Starch Syrup" dated 5 August 1999, provisional 15 per cent special duties for starch syrup for a term of 180 days. The investigation is still in progress.

3. State Trading Enterprises

No developments have occurred in this section of foreign trade legislation of Russia as compared with the previous period.

4. TBT

Government Resolution No. 498 "On Approving the Regulations on the State Committee of the Russian Federation for Standardization and Metrology" of 7 May 1999 endorsed the Regulations on the State Committee of the Russian Federation for Standardization and Metrology.

Resolution No. 766 of the Government of the Russian Federation "On the Approval of the List of Products that may be subject to procedures of conformity declaration, and of the procedure for the adoption of the conformity declaration and its registration" was adopted on 7 July 1999, to define a list of low risk goods (over 250 items) in respect of which a declaration of the producer (vendor, executor) may be sufficient to demonstrate their conformity to regulatory requirements so that a conformity certificate would not be necessary. When registered such declaration has equal legal force with a conformity certificate.

Thus, producers of different goods acquire the option of either completing the necessary certification procedures or submitting their own declaration. This decision of the Government serves to simplify the access of foreign goods to the Russian market.

Resolutions No. 685 dated 24 June 1999 and No. 787 of the Government of the Russian Federation dated 10 July 1999 made further amendments to Resolution No. 601 of the Government of the Russian Federation "On the Marking of Goods and Products on the Territory of the Russian Federation with Forgery Proof Conformity Marks dated 17 May 1997. This resolution has been addressed more than once during the Working Party Meetings.

As a result of the amendment, alcoholic products were excluded from the list of goods subject to mandatory conformity marking, and the coming into effect of Resolution No. 601 was suspended until 1 October 1999.

5. SPS

Federal Law No. 52-FZ "On the Sanitary and Epidemiological Welfare of the Population" dated 30 March 1999 took effect replacing the corresponding 1991 Law. The Federal Law set forth sanitary requirements in respect of products imported to the Russian Federation (Article 16) and defined circumstances under which such products are subject to preliminary registration (Article 43).

Letter No. 13-8-01/400 of the Ministry of Agricultural Products of Russia "On the Procedure of Import and Use of Imported Animal Products" of 8 April 1998 laid down the procedure for import to the Russian Federation and use of imported animal products (beef and beef sub-products, pork and pork sub-products, small cattle meat and sub-products, poultry and poultry products, fish and seafood, horse-flesh, game and exotic animals meat).

This document details the procedure for import of the above goods from different countries.

6. TRIPS

Decree of the President of the Russian Federation No. 651 "On the Structure of the Federal Bodies of Executive Power (with the amendments and supplements of 8 June, 28 June, 6 July, 23 July, 9 August 1999)" dated 25 May 1999 abolished the Russian Agency for Patents and

Trademarks (Rospatent) and transferred its functions to the Ministry of Justice of Russia. Decree of The President of the Russian Federation No. 954 "On Issues of the Ministry of Justice of the Russian Federation" dated 2 August 1999 approved the Regulations on the Ministry of Justice of Russia under which it is authorized to perform, without limitation, legal protection of intellectual property, carry out the functions of patent department and procure improvement of the legislation with regard to copyright and related rights.

For more effective prevention against infringements of intellectual property legislation, the State Customs Committee adopted Order No. 01-14/632 "On Enhancing Control over the Movement of Goods Containing Intellectual Property Objects" dated 27 May 1999 to approve the List of Distinguishing Features of Counterfeit Products.

7. TRIMs

Federal Law No. 19-FZ "On the Introduction of Amendments and Addenda into the Federal Law on Production Sharing Agreements" dated 7 January 1999 was adopted. This Law does a lot to bring the provisions of Russian PSA legislation into conformity with the requirements of foreign investors in terms of:

- simplification of the procedure for subsoil allocations (not just by federal laws);
- extension of their nomenclature.

Federal Law No. 32-FZ "On the Introduction to Legal Acts of the Russian Federation of Amendments and Addenda Arising from the Federal Law on Production Sharing Agreements" was adopted on February 10, 1999. The following Laws were amended to conform:

- "On Subsoil" which provides enhanced rights for foreign investors
- "On the Continental Shelf"
- "On State Regulation of Foreign Trade Activity" (export of goods under PSAs is not restricted for quantity)
- "On Foreign Investment in the RSFSR"
- "On Motorways in the Russian Federation"
- "On Customs Tariffs" (goods imported and exported under PSAs are exempted from customs duties)
- "On Fundamentals of the Tax System in the Russian Federation"
- "On Tax on Property of Enterprises"
- "On Value Added Tax"
- "On Tax on Revenues of Enterprises and Organizations"
- "On Excises" (all goods except motorcars imported and exported under PSAs are exempted from excise payment)
- "The Customs Code" (goods imported and exported under PSAs are exempted from customs duties).

Federal Law No. 87-FZ dated 1 May 1999 and Federal Law No. 106-FZ dated 31 May 1999 attribute the Kirinsk long-term block under the "Sakhalin-3" project, and about 30 oil and gas condensate deposits in Tomsk Oblast to subsoil allocations that can be granted for use under PSAs.

These legislative provisions were further developed in the Resolution of the Government of the Russian Federation No. 740 dated 3 July 1999 and No. 741 dated 8 July 1999, governing the issues of regulation of the composition and procedure for compensation of costs of the foreign investor under a PSA and the formation and use of the liquidation fund under a PSA.

On 25 February 1999 Federal Law No. 39-FZ “On Investment Activity in the Russian Federation Pursued in the Form of Capital Investments” took effect.

This Law lays down the legal and economic framework of investment activity in the form of capital investments in the territory of the Russian Federation, and sets forth guarantees of equal protection of rights, interests and property for all the participants of investment activity in the form of capital investments, irrespective of the type of ownership (including for foreign investors).

On 9 July 1999 Federal Law No. 160-FZ “On Foreign Investment in the Russian Federation” took effect much to the improvement of Russia as a favourable investment environment. Thus, for instance, Article 5 of the above Law provides expressly guaranteed remedies for foreign investments. Article 9 of the Law for the first time in the Russian legislation contains a “Grandfather Clause” for non-exacerbation of cumulative tax burden of foreign investors. Articles 15 – 17 detail the benefits and guarantees available to foreign investors, including in respect of nationalization.

8. Government Procurements (GP)

In the reviewed period in the Russian Federation Federal Law No. 97-FZ “On Tenders for the Placement of Orders for the Supply of Goods, Performance of Works, Provision of Services for State Needs” was adopted on 6 May 1999.

This Law regulates the legal relations arising between the organizer of a tender (state customer) and bidders of a tender [suppliers (contractors)] in the course of tender for contracts for deliveries of goods, performance of works and rendition of services for state needs. The Law is the first of its kind in Russia but the consideration of this area goes on.

9. Services

9.1. Financial Services

Federal Law No. 178-FZ “On Amending the Federal Law on Licensing Specific Kinds of Activities” dated 26 November 1998 extended the list of types of activity subject to licensing in the Russian Federation by including investment funds management.

On 5 March 1999 Federal Law No. 46-FZ “On Protection of Rights and Legitimate Interests of Investors on the Securities Market” took effect. It provides state and public protection of rights and lawful interests of investors on the securities market and defines the procedure for and forms of compensation for damage they incur through illegitimate acts of issuers of securities.

Resolution No. 472 of the Government of the Russian Federation “On the Licensing of Certain Kinds of Auditing Activities in the Russian Federation” dated 27 April 1999 approved corresponding Regulations allowing foreign citizens to participate on a par with Russian citizens in certain activities.

23 June 1999 was marked by adoption Federal Law No. 117-FZ “On the Protection of Competition on the Financial Services Market”. This Law regulates legal relations affecting competition on the market for securities, banking and insurance and other financial services, and provides for protection of competition. It should be emphasized that its provisions extend to acts and agreements made by residents of the Russian Federation in or outside of Russia.

9.2. Other Types of Services

Resolution No. 180 of the Government of the Russian Federation “On the Procedure for Regulating the Admission and Use of Global Mobile Personal Satellite Communication Systems on the Telecommunications Market of Russia” dated 16 February 1999 approved the procedure for regulation of access to, and use of global systems of mobile satellite communications on the Russian telecommunications market. This procedure restricts access to the market to Russian operating companies.

Resolution of the Government of the Russian Federation No. 698 dated 26 June 1999 states that licensing of surface TV and radio broadcasting in RF cities populated by over 200 thousand people must proceed only on a tender basis. This Resolution also approves the Regulations governing such tender.

30 April 1999 was marked by a major breakthrough as the Merchant Shipping Code of the Russian Federation No. 81-FZ entered into force. The 430 Articles of the Code regulate all legal relations arising out of commercial seafaring including property relations, on the basis of the parity, free will and material independence of the participants.
