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of the Russian Federation**

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ACCESSION OF THE RUSSIAN FEDERATION

Additional Questions and Replies

The Permanent Mission of the Russian Federation has submitted replies to questions raised after the eleventh meeting of the Working Party, held on 18 December 2000, with the request that they be circulated to members of the Working Party.

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II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE

2. Economic Policies

(a) Main directions of ongoing economic policies

Question 1

The response to Question 3 of WT/ACC/RUS/38 states that Federal Law No. 29-FZ "On Excise Taxes," levies an excise tax on new automobile imports based on engine displacement. The tax is levied at a uniform rate of 10 per cent for motor vehicles (foreign or Russian-made) with engine capacities of over 2,500 cm³. This form of tax assessment may be inconsistent with GATT Articles I and III, as it discriminates against foreign producers of like products (models with larger engines) that compete with domestic producers. Additionally, the tax affords unequal treatment of like products between member countries. At the same time, given new technologies, motor vehicles with larger engines are not necessarily less fuel efficient. In addition, the size of an engine is not necessarily relevant to the level of pollution it produces.

We would appreciate information from Russia on the application of this tax to domestic automobiles and to imported automobiles from Russia's import suppliers. What portion of domestic output is subject to the tax? What portion of imports of automobiles is subject to the tax, noting the proportions for different import suppliers?

Answer:

Chapter 22 of the Tax Code (Federal Law № 117-FZ of 5 August 2000) which entered into force on 1 January 2001 is the only legislative act now in place which provides for the legislative framework on excise tax in Russia. In pursuance of Chapter 22 of the Tax Code excise tax rates for imports and those for domestic products are identical. The products subject to excise tax and respective tax rates as per 2001 are listed in the following table.

Table

Types of excisable goods	Tax rate (in per cent or rubles and kopeks per one unit of measurement)
Ethyl raw alcohol made of all types of raw materials	8 rubles per 1 litre of absolute ethyl alcohol
Ethyl alcohol made of all types of raw materials (except for alcohol raw alcohol)	12 rubles 60 kopeks per 1 litre of absolute ethyl alcohol
Alcohol products with volume fraction of ethyl alcohol over 25 per cent (except for wines) and alcohol containing products	88 rubles 20 kopeks per one litre of absolute ethyl alcohol contained in excisable goods
Alcohol products with volume fraction of ethyl alcohol from 9 to 25 per cent inclusive (except for wines)	65 rubles 10 kopeks per one litre of absolute ethyl alcohol contained in excisable goods
Alcohol products with volume fraction of ethyl alcohol up to 9 per cent inclusive(except for wines)	45 rubles 15 kopeks per 1 litre of absolute ethyl alcohol contained in excisable goods
Wines (except for natural wines):special vine, original (fortified), fruit (fortified), vermouth	36 rubles 75 kopeks per 1 litre of absolute ethyl alcohol contained in excisable goods
Champagne and sparkling wines	9 rubles 45 kopeks per 1 litre
Natural wines (except for champagne and sparkling wines)	3 rubles 15 kopeks per 1 litre

Types of excisable goods	Tax rate (in per cent or rubles and kopeks per one unit of measurement)
Beer with normative (standardized) volume of fraction of ethyl alcohol up to 8.6 per cent inclusive	1 ruble per 1 litre
Beer with normative (standardized) volume of fraction of ethyl alcohol over 8.6 per cent	3 rubles 30 kopeks per 1 litre
Pipe tobacco	405 rubles per one kg
Smoking tobacco, except for tobacco utilized as raw material to produce tobacco articles	166 rubles per one kg
Cigars	10 rubles per one piece
Cigarillos, cigarettes with filter longer than 85 mm	75 rubles per 1,000 pieces
Cigarettes with filter, except for cigarettes longer than 85 mm and cigarettes of the 1, 2, 3, and 4 classes as per GOST	55 rubles per 1,000 pieces
Cigarettes with filter of 1, 2, 3 and 4 classes as per GOST	35 rubles per 1,000 pieces
Non-filter cigarettes, mouthpiece cigarettes	10 rubles per 1,000 pieces
Jewellery	5 per cent
Petroleum and stable gas condensate	66 rubles per 1 ton
Cars with engine power up to 67.5 kW (90 hp) inclusive	0 rubles per 0.75 kWt (1 hp)
Cars with engine power up over 67.5 kW (90 hp) and up to 112.5 kW (150 hp) inclusive	10 roubles per 0.75 kWt (1 hp)
Cars with engine power over 112.5 kW (150 hp), motorcycles with engine power over 112.5 kW (150 hp)	100 rubles per 0.75 kWt (1 hp)
Motor gasoline with octane value up to "80" inclusive	1,350 rubles per 1 ton
Motor gasoline with other octane values	1,850 rubles per 1 ton
Diesel fuel	550 rubles per 1 ton
Oil for diesel and (or) carburettor (injector) engines	1,500 rubles per 1 ton
Natural gas sold on the territory of the Russian Federation	15 per cent
Natural gas sold to member states of the Commonwealth of Independent States	15 per cent
Natural gas sold from the territory of the Russian Federation (except for the CIS member states)	30 per cent

Only two categories of products (natural gas and jewellery) are subject to ad valorem rates. The tax base for domestic products is selling price exclusive VAT. For imported goods (out of these two categories) the tax base is the sum of their customs value and payable customs duty.

Question 2

In the answer to Question 16 of WT/ACC/RUS/38 it is indicated that the supply of foodstuffs and other socially significant commodities by CIS countries in exchange for energy sources was a forced measure in the wake of the August 1998 crisis and that agreements have been reached with Ukraine and Belarus.

Could Russia please indicate until when these agreements will be in force as this mode of repayment is considered as a temporary and forced measure?

Answer:

These agreements are not in force from 2000.

Question 3

What is the state of privatization process in sectors of extraction, processing and supply of energy carriers in Russian Federation? Does the Government of the Russian Federation carry out the price regulation on energy carriers? Is the State involved in carrying out or defining the terms of private contracts concluded in energy sector and how can it influence on the terms of ongoing private contracts (even prepaid contracts) through its natural monopolies? Does the Government of the Russian Federation maintain tax incentives for any enterprise, if yes, please describe?

Answer:

From 1993 to 1999 there were 178 enterprises privatised in electric power engineering and 410 enterprises in the fuel industry. The process of privatisation in the Russian energy sector is currently continuing. As of the 1 January of 2001, federal participation was maintained in over 500 joint-stock companies in the fuel and energy sector. Proposals are now being considered regarding the time frame and modes of disposing of federal interest in 350 joint-stock companies in fuel and energy sector.

The state is not involved in carrying out or defining the terms of private contracts concluded in energy sector and it cannot influence the terms of ongoing private contracts.

The government encourages capital investments in production by deducting such amounts from the taxable profits of enterprises. For instance, in order to increase production of oil and development of hard-extractable reserves, the Government of the Russian Federation adopted Resolution No. 1213 "On Measures Incidental to Commissioning of Idle Wells, Monitor Wells and Suspended Wells in Oil Fields" dated 1 November 1999, which provides for exemption from regular payments for reproduction of mineral resource base.

As for price regulation on energy carriers see the answer to Question 4.

Question 4

In its answers to questions on price controls (WT/ACC/RUS/38), the Russian Federation indicates that at the Federal level, state regulation of prices is for the most part related to the output of natural monopolies. What other policy rationales exist for regulating the prices charged for goods and services? What industries are considered to be "natural monopolies" for this purpose? How often is the status of industries considered to be "natural monopolies" reviewed? Which products and services currently subject to price controls are nonetheless considered not to be related to the output of natural monopolies?

Answer:

Pursuant to Federal Law No. 147-FZ "On natural monopolies" of 17 August 1995, the following types of activity are related to natural monopolies:

- transportation of oil and oil derivatives by trunk pipelines
- transportation of gas by pipelines
- electric power and heat power
- railway transportation
- services of transport terminals, ports, airports
- services of postal and electronic communications.

The status of industries considered as natural monopolies could be reviewed only by amendments to the above said federal law. The status of enterprises considered as natural monopolies is annually reviewed by decision of regulating body Ministry of Antimonopoly policy or upon the individual request of the enterprise depending on the requirements of the current legislation.

Thus, the state regulation of prices (tariffs) is applied to goods and services of natural monopolies, and also to some specific goods and services such as products for defence purposes, raw diamonds and precious stones, social services and some other. During the process of further reforming of the economy and restructuring of natural monopolies the state regulation of prices (tariffs) applied to goods and services will be reduced.

The exhaustive lists of goods and services subject to the state regulation of prices (tariffs) on the domestic market of the Russian Federation, are submitted in WT/ACC/SPEC/RUS/21, Reference Paper No. 3.

Question 5

The answer to Question 4 (WT/ACC/RUS/38) indicates that *ad valorem* excise duties applied to imported goods are calculated on the basis of the customs value plus the total of customs duties and levies payable, rather than on the basis of the customs value alone. This appears to imply additional burden against imported goods in comparison to like domestically-manufactured goods, where excise duties are calculated on the basis of actual value. Can Russia confirm whether this is the case; if so, how does Russia reconcile this with the national treatment obligations of Article III of the GATT 1994?

Answer:

See the answer to Question 1.

Question 6

Can Russia confirm whether the *destination principle* is now fully applied for the application of VAT on trade within the CIS countries? Is the same principle also applied to imports from and exports to non-CIS countries? Please give details of the relevant legislation and its entry into force. Please also identify any other relevant governmental measures or actions in this respect. Have the necessary "customs posts along the borders" (referred to in the answer to Question 6, WT/ACC/RUS/38) now been established?

Answer:

The only legislative act now in force which provides for the legislative base for VAT in Russia is Chapter 21 of the Tax Code. In accordance with Chapter 21 of the Tax Code (Federal Law No. 117-FZ of 5 August 2000) and Federal Law "On Introduction of Part Two of the Tax Code (No. 118-FZ of 5 August 2000) VAT is applied in an uniform manner to all domestic and imported products and will also be applied in a similar manner in trade with CIS countries as from 1 July 2001 (the country of destination principle). The necessary customs infrastructure has been established.

Thus, the current legislature on VAT in Russia provides for full national treatment of imported products.

Goods subject to VAT at 10 per cent rate are enumerated below. That rate is applied equally to imported and domestic goods.

Goods subject to VAT at 10 per cent rate

The taxation shall be made at the 10 per cent tax rate in case of sale of:

1. The following food articles:

- cattle and poultry in live weight;
- meat and meat products (except for gourmet articles: tenderloin, veal, tongues, sausage articles - fresh smoked of best quality, fresh smoked semidry, of best quality, fresh seasoned, stuffed of best quality; smoked articles made of pork, mutton, beef, veal, poultry - balyk, karbonade, neck, ham, pastorma, loin; baked pork and beef; canned ham, bacon, karbonade and tongue in marinade);
- milk and diary products (including ice-cream produced on their basis, except for ice-cream produced on a fruits-and-berry basis, fruit and food ice);
- eggs and egg based products;
- vegetable oil;
- margarine;
- sugar, including raw sugar;
- salt;
- grain, compound food, fodder mixes, grain waste;
- oilseeds and products of their processing (coarsely cut), oilcakes);
- bread and bakery food articles (including fancy bread, rusk and roll articles);
- groats;
- flour;
- pasta articles;
- live fish (except for valuable species: white salmon, the Baltic and Far Eastern salmon, sturgeon (beluga, bester, sturgeon, sevryuga, sterlet), salmon, trout (except for sea trout), nelma, keta, chavych, kizhuch, muksun, omul, the Siberian and Amur sig, chir);
- seafood and fish products, including fish cooled, frozen and other kinds of processing, herring, canned food and pickled canned food (except for gourmet articles: caviar of sturgeon and salmon species; of white salmon, the Baltic salmon, of sturgeon fishes - beluga, bester, sturgeon, sevryuga, sterlet; salmon; backs and flanks of nelma, cold smoked; light-, medium- and semuzh- pickled keta and chavycha; backs of keta, chavycha and cold smoked kizhuch, flanks of keta and sides of cold smoked chavycha; backs of muksun, omul, the Siberian and Amur sig, cold smoked chir; pickled canned fillet - slices of the Baltic salmon and the Far Eastern salmon; crab meat and sets of cooked-and-frozen separate limbs of crabs; of spiny lobsters);
- children's and diabetic foods;
- vegetables (including potatoes).

2. The following goods for children:

- knitted articles for the new-born and children of day care, pre-school, junior and senior school age groups: the street knitted articles, underwear knitted articles, socks and stockings articles, other knitted articles: gloves, mittens, head gears;
- sewn articles (except for articles made of natural fur and natural leather) for the new-born and children of day care, pre-school, junior and senior school age groups: the street clothes

- (including the dress and suit groups), underwear, headgear, clothes and articles for new-born and children of day care group;
- footwear (except for sports): footwear for the new-born and children of day care group, of pre-school, school; made of felt; rubber: small children sizes, children, school;
 - children's beds;
 - children's mattresses;
 - perambulators;
 - school exercise-books;
 - toys;
 - plasticine;
 - pencil cases;
 - counting sticks;
 - school abacuses;
 - school diaries;
 - drawing-books;
 - albums for drawing;
 - albums for plotting;
 - folders for exercise-books;
 - covers for textbooks, diaries, exercise-books;
 - holders of cards with figures and letters;
 - diapers.

Question 7

Questions 7 and 8 (WT/ACC/RUS/38) refer to the Federal Law "On Amendments to the Law of the Russian Federation on Value Added Tax" adopted by the State Duma on 1 March 1999 and approved by the Federation Council on 17 March 1999. In the response to Question 7, it is stated that this law was subsequently vetoed by the President of the Russian Federation. Please provide details of whatever legislation on Value Added Tax is therefore currently applicable. How does this legislation affect application of the destination principal or the possibility of tax exemptions for pre-payment of VAT?

Answer:

See the answer to Question 6.

Question 8

Can the Government of Russia comment on the evolution of the situation referred to in the answer to Question 16 (i.e. "repayment by a number of CIS Member States of a part of their debts for supplied fuel by providing foodstuffs and other socially significant contributions")? It is stated that this is a temporary and forced measure for debt repayment between CIS countries as a result of the crisis of August 1998. With the improved economic environment, has reliance on barter arrangements of this sort been reduced?

Answer:

With the improved economic environment the reliance on barter arrangements of this sort has been reduced and those agreements are not in force from 2000. See also the answer to Question 2.

Question 9

As a follow-up to Question 17, is it still the case that prices and tariffs for goods and services may only be quoted in the national currency? What impact has this measure had in restraining inflation?

Answer:

The practice of quoting prices and tariffs for goods and services in the national currency is maintained by many national economies all over the world. In the Russian Federation this measure is indispensable for strengthening the state financial policy and, taking into account the depreciating rate of ruble, stabilising inflation levels.

Question 10

Are the procedures governing pre-payments in foreign currency for imported goods and services described in the answer to Question 19 still in force (i.e. Instruction No. 519-U of the Bank of Russia of 22 March 1999 and Instruction No. 543-U of 14 April 1999)? If not, what legislation has replaced them?

Answer:

Instruction No. 519-U of the Bank of Russia of 22 March 1999 and Instruction No. 534-U of 14 April 1999 are still in force.

III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES AFFECTING FOREIGN TRADE IN GOODS AND TRADE IN SERVICES

2. Government entities responsible for making and implementing policies affecting foreign trade

Question 11

Federal and regional authorities. We understand that, as indicated at the May 2000 Working Party, a Presidential Decree has been issued that establishes a Registry for the Russian Federation where all local and regional laws must be notified and reviewed for their consistency with Federal Law. Russia stated that regional legislation that contradicted Federal Law or the Constitution would not be registered or come into effect.

- Please confirm that this Registry is now in operation and describe how it works.
- Please indicate Russia's plans for this institution, i.e., will it be established in a law, or will it continue to be based on the Presidential Decree.
- How will existing regional or local legislation will be dealt with, i.e., will they also be reviewed and registered?
- Have there been any instances to date of local laws or other legal instruments changed or invalidated by this process?
- Have either of these provisions been enacted? Are they currently before the Duma or still in development?

Answer:

Article 4 of the Constitution of the Russian Federation provides that the Constitution of the Russian Federation and federal laws shall have supremacy in the whole territory of the Russian Federation.

The order of consideration of the legal acts of the subjects of the Russian Federation for their conformity to the federal laws, procedure of their possible amendments or abolition is formulated in the Federal Law "On the General Principles of the Organization of the Legislative (Representative) and Executive Bodies of State Power of the Subjects of the Russian Federation" of 6 October 1999 No. 184-FZ (as amended 29 July 2000 and 8 February 2001).

The federal bank of legal acts of the subjects of the Russian Federation, i.e. a Federal Register of legal acts of the subjects of the Russian Federation, was established by virtue of the Decree of the President of the Russian Federation "On Additional Measures for Ensuring the Uniformity of the Legal Space of the Russian Federation" No. 1486 of 10 August 2000. The responsibility for keeping the Federal Register is vested with the Ministry of Justice of the Russian Federation.

Keeping the Federal Register of the legal acts of the subjects of the Russian Federation was approved by the Government Resolution of the Russian Federation No. 904 of 29 November 2000.

In accordance with the Presidential Decree all legal acts of the subjects of the Russian Federation must be submitted to the Ministry of Justice of the Russian Federation within seven days after the enactment thereof and also the official publications containing legal acts of the subjects of the Russian Federation. The Ministry of Justice includes them in the Federal Register and carries out the legal expertise.

The legal acts of a subject can be abolished or amended by the respective act of the body of the state power of the subject. In accordance with the Article 3.1 of the Federal Law No. 184-FZ of 6 October 1999 the state power bodies of the subjects are held responsible if they adopt legal acts which contradict the Constitution of the Russian Federation and the federal legislation.

During the period from 1995 till 30 April 2001 the Ministry of Justice considered 52034 legal acts of the subjects of the Russian Federation. 6883 of these acts were found inconsistent with the Constitution of the Russian Federation and the federal legislation.

Legal acts considered by the Ministry of Justice of the Russian Federation can be found on official sites of the subjects of the Russian Federation (for example, the legal acts of Belgorod Oblast are represented on site: www.bcpi.bel.ru, of Lipetsk Oblast - www.lcpi.lipetsk.ru)

By virtue of Article 9.4 of the Federal Law No. 184-FZ of 6 October 1999 the President of the Russian Federation can introduce to the State Duma the draft law on dissolution of the legislative body of a subject of the Russian Federation if the latter fails to bring its legal acts in compliance with the Constitution of the Russian Federation and federal legislation. By the present time such draft laws have not been introduced to the State Duma.

Question 12

To illustrate the supremacy of Federal laws over regional ones, Russia cites a Presidential decree that suspended a Belgorod Oblast resolution that restricted the export of unprocessed food products from the Oblast.

- **While Presidential Decree No. 362 suspended the Belgorod Oblast resolution restricting agricultural exports, it also was suggested that the Head of the Belgorod Oblast Administration was advised to bring his decision into conformity with Russian legislation.**
- **Did this occur? Was Resolution No. 645 of the Head of the Belgorod Oblast Administration formally rescinded or amended to conform with Russian federal law?**

Answer:

The Decision of the Head of Administration of Belgorod Oblast "On Limitation of Imports of Agricultural Products" No. 645 of 16 December 1998 was suspended by the Decree of the President of the Russian Federation No. 362 of 18 March 1999 and abolished by the Resolution of the Head of the Administration "On Abolition of the Decision of the Head of Administration of Belgorod Oblast" No 645 of 29 June 1999.

See also the answer to Question 12.

5. Laws and Legal Acts

Question 13

WT/ACC/RUS/42 lists legislation "to be implemented by the Federal bodies of Executive Power" relating to WTO in 2000-2001.

- **Under Foreign and Domestic Trade in Goods, it states that Russia intends to improve legislation on the regulation of foreign trade, in part by establishing a dispute settlement procedures. Is this the same a right of appeal? If not, how does it differ? The time frame for this law is given as "2000". What is its status?**
- **In this same section, it mentions licensing and the adoption of safeguards. Is this a reference to the new licensing law as well as to the new law on trade remedies, or is it a different piece of legislation?**
- **The table in WT/ACC/RUS/42 does not contain all the references to draft legislation listed in WT/ACC/RUS/37/Rev.1, e.g., in the areas of the new Customs Code, customs valuation, TBT, and TRIPS. Can Russia expand WT/ACC/RUS/42 to clarify the likely time lines for enactment of the draft legislation and amendments in key WTO areas to laws listed in WT/ACC/RUS/37/Rev.1? To what extent was this done in WT/ACC/RUS/42/Rev.1?**
- **Could Russia provide a copy of the Law On introduction of amendments to the Federal Law "On state regulation of foreign trade activities"?**

Answer:

The draft new Arbitration Procedure Code passed the first reading in the State Duma on 11 April 2001. This draft law provides for appeal procedure.

The draft Federal Law "On Additions and Amendments to the Federal Law "On Protection of Economic Interests of the Russian Federation in Foreign Trade in Goods" bringing the procedures of antidumping, safeguards and countervailing measures into conformity with the WTO rules and disciplines is being submitted to the Government. The draft Federal Law "On Licensing of Exports and Imports in the Russian Federation" establishing the import licensing system consistent with the WTO rules and disciplines will be submitted to the Government shortly.

The likely time frame for the new Customs Code, customs valuation, TBT and TRIPS related legislation are submitted in the document WT/ACC/RUS/45

The draft Law "On Additions and Amendments to the Federal Law "On State Regulation of Foreign Trade Activity" is under elaboration

Question 14

To facilitate the reading of this document we suggest that the next revised document highlights the modifications with regards to the previous version, using, for instance, bold characters for the changes.

In addition we note that numerous new laws and amendments have been adopted in 2000 or are being adopted (e.g. TRIPS, GATS; TBT). We would be particularly interested to have more details about the modifications foreseen in the new customs code and tax code.

Answer:

See the answer to Question15.

Question 15

It would be useful and more transparent to specify which decree or law is concerned in the corresponding column.

Answer:

The document WT/ACC/RUS/45 revising information contained in documents WT/ACC/RUS/42 and WT/ACC/RUS/42/Rev.1 and submitted to the WTO members recently contains the responses, *inter alia*, to such requests.

Question 16

We are interested if the appropriate Russian legislation implies provisions of Article 5 of the GATT (Freedom of Transit). How the Russian Federation ensures the compliance with the provisions of Freedom of Transit. If there were serious facts of infringement of this clause on the territory.

Answer:

The Russian customs legislation in force (as well as drafted amendments to this legislation) is fully consistent with the provisions of Article V of GATT-1994. Furthermore, the principle of free transit is being reflected in all new international agreements of the Russian Federation.

Thus, the Russian legislation in force defines the transit of goods as a regime when passage of goods in transit across the customs territory of the Russian Federation which means only a portion of a complete journey beginning and terminating beyond the customs borders of the Russian Federation. Such a passage is effected under customs control. The goods in transit are to be allowed for reloading and temporarily storing.

The Government of the Russian Federation is empowered to define the most convenient routes and directions of transit.

Any goods in transit may pass across the customs territory of the Russian Federation , except those prohibited to transit under federal laws, other legal acts of the Russian Federation and international agreements of the Russian Federation.

By virtue of the customs legislation of the Russian Federation in force the entry of goods in transit into the customs territory of the Russian Federation may be performed through any checkpoints with the exceptions specified by the State Customs Committee. The draft new Customs Code vests the latter authority to the Government of the Russian Federation.

By virtue of the Russian legislation in force there are no customs duties or taxes levied on goods in transit. The customs authorities charge customs fees for the appropriate customs formalities in accordance the generally accepted international practice. This practice requires to be paid customs duties and taxes by ensuring guarantees of payment of customs duties and taxes in accordance with the established international customs practice through the placement of corresponding sums on deposit with the customs. These sums are returned afterwards. Currently the customs duty for transit is no more than 0.1% of the value of goods. In the draft Customs Code the customs duties for customs clearance do not exceed the approximate value of costs of clearance operations for the customs authorities .

Under the international agreements of the Russian Federation, customs clearance is not charged on certain categories of goods in transit.

In customs clearance of transit the customs authorities as a general rule only require submission of documents necessary for identification of goods and vehicles for customs purposes (waybills and commercial documentation), other authorisations if required, documents confirming measures having been taken to secure the payment of customs duties.

Rules and requirements of customs authorities in respect of transit are the same regardless of the country of despatch, destination or origin of goods.

The transit of goods passed across the territory of the Russian Federation to CIS member-states is not subject to customs clearance fee, except goods moved from or to the Ukraine or Azerbaijan.

IV. POLICIES AFFECTING TRADE IN GOODS

1. Import Regulation

(b) Characteristics of national tariff

Question 17

You indicated that the number of tariff peaks was cut back drastically since December 1998.

Could you indicate which are the products concerned by this reduction as well as by which percentage the tariff peaks rate have been reduced?

Answer:

The list of goods for which the customs duties were reduced (from 30 and 25 per cent to 20 and 15 per cent correspondingly) covers for example poultry meat, pharmaceuticals, explosives and matches, certain chemical products, textile and apparels, footwear, microelectronics, TV-sets, electric appliances, passenger cars, civil aircraft, etc.

(d) Other duties and charges, specifying any charges for services rendered

Question 18

At the May 2000 Working Party, delegations inquired about Russia's application of a reduced VAT for certain imported food products and children's items. Please confirm that the reductions in VAT for products listed amendments to the Law on Value Added Tax apply equally to imported and domestic products.

Answer:

See the answer to Question 6.

Question 19

Federal Law 2-FZ of 2 January 2000 revised previously existing excise rates effective per 1 April 2000 by increasing them by 30-40 per cent for alcoholic products, by 25 per cent for beers and by 100 per cent for tobacco products.

Could you indicate what are the changes foreseen for 2001? Please provide an updated list of excise duty rates applicable as from 1 January 2001 with the corresponding designation of goods and the tariff lines concerned.

Can you confirm that the VAT rate for meat and sea-food, sugar, fish and fish products, eggs and children's footwear is 10 per cent?

Answer:

See answers 2 and 6.

(e) Quantitative import restrictions, including prohibitions, quotas and licensing systems

Question 20

Question 14 and 29 of WT/ACC/RUS/38 asked Russia if they would supply a list of its administrative import bans. Russia responded that they did not have any "specific" plans to introduce any new measures and that Russia would rely upon its "existing regulatory framework."

Could Russia update the information provided on its existing regulatory framework? Russia might do this by reviewing the table on non-tariff measures presented in the annex of WT/ACC/SPEC/RUS/1 and 2. This would be an opportunity for Russia to include more current information such as the temporary ban on ethyl alcohol.

Answer:

The legal framework for import licensing system was established by Article 19 of the Federal Law "On the State Regulation of Foreign Trade Activities" (No. 157-FZ, dated 13 October 1995). Articles 12 and 15 of the Law stipulated that procedures for the importation of precious stones, precious metals, and nuclear materials were established by Decrees of the President of the Russian Federation, while procedures for the importation of goods affecting Russia's national security interests and for the fulfilment of its international agreements were laid down by the Government of the Russian Federation.

On 31 October 1996, the Russian Government, through its Resolution No. 1299 "On rules of conduct of auctions and tenders on sale of quotas in cases of introduction of quantitative restrictions and licensing of exported and imported goods, works and services" (as amended on 27 January 1997, 2 February, 14 March and 29 December 1998), introduced a uniform procedure for licensing of imports, making Russian practice in this field consistent with relevant provisions of the GATT 1994 and the Agreement on Import Licensing Procedures.

The detailed information on import licensing is provided in the tables below.

Table 1

List of goods subject to non-automatic import licensing

Product group	HS Code	Reason for licensing	GATT Reference
Weapons, ammunition, military equipment, kits to produce such equipment	9301-9307, 8710	National security	Art. XXI (b) (ii)
Explosive substances	2904 20100, 3601-3604	National security	Art. XXI (b) (ii)
lear materials, equipment and installations to produce such materials	2844, 8401 etc. in accordance with the internationally agreed list of Tsanger committee and London club of nuclear suppliers	National security	Art. XXI (b) (ii)
Pharmaceutical products	2904-2909, 2912-2942, 3001-3004, 3006 30, 3006 60	Protection of human, animal or plant life or health	Art. XX (b)
Drugs, substances with psychotropic effects; poisons; materials to produce such substances	Internationally agreed list of U.N. Convention of 1961 (as amended by Vienna protocol of 1963)	Protection of human, animal or plant life or health	Art. XX (b)
Products for plant protection	3808 (only for plant protection)	Protection of human, animal or plant life or health	Art. XX (b)
Precious metals and stones objects made thereof, alloys, semi-fabricates, ores, concentrates, wastes	2616, 2843, 300640 (only precious metals) 7106-7112, 7113 11, 711319, 711411, 711419, 711510 100, 7115 19 100, 7118 (only precious metals) 8544 (only with precious metal conductors), 9003 19 100, 9021 29100, 911110, (only of precious metals) 911310 (only of precious metals, 960810300 960839100	Special role of precious metals and stones	Art. XX (c)
Hazardous wastes	Internationally agreed list of Basel Convention	Protection of human, animal or plant life or health	Art. XX (b)
Ozone destroying substances and products	Internationally agreed list of Montreal Protocol	Protection of human, animal or plant life or health	Art. XX (b)
Encryption devices	8471 (only cipher equipment) 847330 (only for cipher equipment), 854380900 (only for cipher equipment), 854390900 (only for cipher equipment)	National security	Art. XXI (b) (ii)

Product group	HS Code	Reason for licensing	GATT Reference
Goods of dual purposes which could be used for production of chemical, biological, nuclear or rocket mass destruction weapons	Internationally agreed lists	National security	Art. XXI (b) (ii)
sturgeon species of fish and products made thereof including caviar	Internationally agreed lists: ex.030199190, ex.030269190, ex.030270, ex.030379190, ex.030380, ex.030410190, ex.030410910, ex.030420190, ex.030490100, ex.030520, ex.030530900, ex.030549800, ex.030559900, ex.030569900, ex.051191900, ex.160419910,ex.160419980, ex.160420900 (all-only sturgeon species of fish), 160430100	Protection of animal life or health	Art. XX (b)
Equipment for unauthorized receipt of information	ex.851750, ex.851780900, ex.852440100, ex.852510900, ex.852520900, ex.8527, ex.900651, ex.900652, ex.852530, ex.852540, ex.900653100 (all-special devices only)	Protection of public moral	Art. XX (a)
Ethyl alcohol	220710000, 220720000 220890910, 220890990		Art. XX (c)
Vodka and some other strong alcoholic beverages	220860, 220890110, 220890190, ex.220890330, ex.220890380, 220890410, 220890450, ex.220890480, 220890520, ex.220890570, ex.220890690, ex.220890710, ex.220890740, ex.220890780		Art. XX (c)
Raw sugar	170111	Administration of TRQ	Agreement on Import Licensing procedures, Articles 1 and 3

Table 2

List of Goods subject to automatic import licensing

Product group	HS Code	Reason for licensing
Carpets originating from EU countries	5702 20, 5702 39 900 5702 49 900	Monitoring of trade flows
White sugar	1701 99 100	Monitoring of trade flows
Glucose syrup	1702 30 990	Monitoring of trade flows
Tobacco and tobacco items	2401-2403	Monitoring of trade flows

The import licenses applied to usual products are allowed by articles XX and XXI of GATT 1994. In accordance with the Law 157-FZ licenses are applied for the purpose of fulfilling international agreements, ensuring State security, the protection of human, animal and plant health and protection of the environment, maintenance of public morals and to regulate the trade in precious metals. The licenses are issued by the Ministry for Economy Development and Trade and for weapons

and ammunition by the Ministry of Defence. The licensing regime is applied in identical manner to imports from all countries.

The purpose for licensing regime is to monitor and to control imports of goods, which for various reasons are classified as sensitive for Russia and international community. Russia has no intention to limit the quantity and value of imports, except as provided for in international conventions such as the Montreal Protocol or Basel Convention. The import licenses for white sugar, tobacco, glucose syrup and carpets are temporary surveillance licenses, issued to gather trade data. Those licenses are granted automatically. As for import licensing of strong alcoholic beverages the applicant should have a license for this particular type of activity (activity license).

The last Resolution of the Government, which enforced import or export licensing was dated December 1998. After that the decisions on goods subject to import or export licensing regime were amended on several occasions over the past three years with a view to minimizing their list. The most recent decision was adopted on 10 May 2000 removing import licenses for colour TV sets.

The applications for licenses are to be submitted to no more than one administrative body. The amount and type of information to be submitted is stipulated in the Resolution of the Government No. 1299 of 31 October 1996: the application itself, a copy of import or export contract, a copy of the charter of the applicant, a copy of the certificate of the state registration, the approval of the federal agency responsible for the specific sensitive goods (for non-automatic licenses only) and the activity license (for strong alcoholic beverages only). The validity of license as a rule does not exceed 12 months but can be extended upon request of the license holder. An administrative fee of 3000 rubbles is charged for each import or export license. Applications can only be rejected if any of the above-mentioned documents is not available, or the information submitted by the applicant is false or the importer or exporter does not fulfil the conditions stipulated in international conventions for specific goods. The license should be issued within 25 days after the submission of the complete set of documents (see also WT/ACC/RUS/10 for further details).

The prohibition of the importation of ethyl alcohol was enforced by the Federal Law No. 61-FZ "On Temporary Ban of Ethyl Alcohol Imports" of 31 March 1999 and stays valid up to 31 December 2001 only. This ban is essentially necessary for the enforcement of governmental measures which operate to restrict the quantities of the like domestic product to be marketed in compliance with Article XI:2(c)(i) of GATT 1994. This in turn is necessary to perform tax collection on turnover of ethyl alcohol and its products effectively. Taking into account the role of the taxes on ethyl alcohol and its products in the revenues of the Russian budget this ban has been enforced to ensure the national interests of Russia. Once the ban is lifted the importation of ethyl alcohol will be subject to non-automatic licensing in compliance with provisions of the Resolution of the Government No. 1299 of October 1996 as described above. There are no other bans or quantitative restrictions on imports at the present time.

Question 21

The response to Question 24 of WT/ACC/RUS/38 confirms that Federal Law No. 61-FZ bans imports of ethyl alcohol. Russia has indicated that this is a temporary measure required to combat tax fraud.

- **Does Russia still consider this ban temporary? What is the status of the ban and deliberations for its termination? We seek confirmation that Russia will lift the ban prior to its WTO accession.**
- **In response to Question 24, the Russia suggests this ban is legal under GATT Article XI (c) exceptions for agriculture. We note that these exceptions were later addressed in the Agreement on Agriculture, Article 4, which would appear to prohibit measures, with**

certain exceptions that do not apply to Russia or are not relevant to the issue of Article XI exceptions.

Answer:

See the answer to Question 20.

Question 22

WT/ACC/RUS/33/Rev.1 appears to suggest that this temporary ban of ethyl alcohol can be justified under GATT Article XX.

- **Could Russia clarify how such a ban would be covered under the general exceptions clause?**
- **Please explain, once the ban has been lifted, how imports of ethyl alcohol will be affected by No. 1199 FZ "On the Approval of Rules for the Issuance of Quotas for the Manufacture of Ethyl Alcohol from All Types and Special Permits for Its Delivery," e.g., if, as it appears, Federal Law No. 1199 contemplates placing quotas on deliveries by domestic producers, does Russia eventually plan to place quotas on imports?**
- **Is this a tax measure, or for some other purpose?**

Answer:

See the answer to Question 20.

Question 23

Federal Law No 61-FZ of 31 March 1999 on the temporary ban on the imports of ethyl alcohol prohibits the imports of ethyl alcohol from all kinds of raw materials until 1 January 2002.

What do you mean by "national interests"?

Answer:

See the answer to Question 20.

Question 24

The provisions of the Federal Law "on Temporary Ban on Ethyl Alcohol Imports" do not appear to be consistent with Article XI of the GATT 1994. We seek further explanations from the delegation of the Russian Federation how it considers that provisions of the above-mentioned Law comply with the Article XI of the GATT 1994 (as it is indicated in questions and replies of the Russian Federation, WT/ACC/RUS/38). What kinds of internal problems are really experienced by Russian Federation in using the mechanisms for controlling the domestic marketing of ethyl alcohol or preventing the sale of its products in avoidance of required tax payments, that are main preconditions for maintaining the import ban? We seek the commitment from the Russian Federation that it will remove this import ban not later than 1 January 2002.

Answer:

See the answer to Question 20.

Question 25

The answers to Questions 24-28 and 30 describe a number of measures that restrict imports, domestic production and sale of ethyl alcohol and alcoholic beverages. Are these measures all still in force? If Russia considers that the ban on imports of ethyl alcohol is consistent with the provisions of Article XI:2(c) of the GATT 1994 (see the answer to Question 27), please explain in detail how the measure satisfies the provisions of this Article.

Answer:

The Russian government decreased the quantities of the like domestic product to be marketed ten times between 1998 and 2000. See also answer 20.

Question 26

Further to the answer to Question 31, what products remain subject to automatic import licensing? What legal or administrative framework is in place to ensure that all requirements of the WTO Import Licensing Agreement are satisfied?

Answer:

See the answer to Question 20.

Question 27

What products are subject to non-automatic import licensing?

Answer:

See the answer to Question 20.

(f) Import licensing procedures

Question 28

We appreciate Russia's response to Question 31 of WT/ACC/RUS/38 concerning the introduction of mandatory licensing requirements for agricultural products. Our understanding of this procedure is that import licenses for access to a TRQ are being distributed through auctions, and that these auctions are only open to participants who meet specific criteria.

While a TRQ may seem like a good way to strengthen customs authority, experience shows that it can actually have the opposite effect, encouraging grey market activity and customs circumvention and reducing tax and customs revenues. Moreover, the effect on consumer prices could be significant depending on the size of the quota and the in- and out- of quota duties.

We hope that the scope of products subject to this licensing regime remains small and that Russia continues to view automatic licensing as the most transparent and effective mechanism.

- In light of the information provided in the response to Question 31, could Russia explain how import licensing for sugar under the tariff-rate quota that took effect in December 2000 operates, and how it conforms to WTO rules on import licensing?

- **Does Russia envision the establishment of tariff-rate quotas and non-automatic import licensing for any other agricultural products? Will the import licensing system established for sugar be used for other commodities if TRQs are established?**

Answer:

The licenses to the winners of sugar auction held on 30 November 2000 are granted automatically.

The TRQs are offered on certain agricultural products as indicated by Russia in its tariff offer of February 2001. The specific import licensing procedure for TRQ commodities will depend upon the mechanism of TRQ allocation which is not yet worked out.

Question 29

Pharmaceuticals - paragraph 2 of the GR No. 1539 "On importation into and exportation of Medicaments and Pharmaceuticals" appears to suggest that foreign manufactures must have offices in the Russian Federation in order to obtain an import license. Could Russia clarify if this law requires foreign manufacturers of pharmaceuticals to have an office in the Russian Federation to obtain a license to import? Such a requirement would be WTO inconsistent.

- **Article 3.2 of the import license agreement states that procedures shall be no more administratively burdensome than absolutely necessary to administer the measure. Could Russia elaborate on the intentions of these measures. Particularly, in the case of licensing products such as flavourings and dual use precursor chemicals. Does the necessity of the measure require the examination of every contract to import?**
- **There have been some recent media reports that amendments to the law "on medicines" have been proposed that would ban the import of pharmaceutical products which have Russian-Produced analogues. Such measures would appear to be inconsistent with the WTO. What is the status of such amendments?**

Answer:

Under the legislation in force, export and import licenses are issued only to Russian participants of foreign economic activity. A Russian participant of foreign economic activity is a legal entity organised under the laws of the Russian Federation and having a permanent presence in its territory, or a natural person permanently or prevalently resident in the Russian Federation and registered as an individual entrepreneur, including companies with 100% foreign-owned capital (for further details see section "registration requirements" in WT/ACC/SPEC/RUS/20).

Applications for licenses are considered if they have passed preliminary authorisation:

- by the Ministry of Health of Russia for medicaments and pharmaceuticals used for medical purposes;
- by the Ministry of Agriculture of the Russian Federation for medicaments and pharmaceuticals used for veterinary purposes.

Licensing is required in respect of foreign trade operations in chemicals which can potentially be used in the making of chemical weapons and their precursors by Russian export control legislation in order to secure international obligations of the Russian Federation under the Convention on Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction.

The Convention contains commitments of its member-states in respect of control over operations in the above-mentioned chemicals in their territories (production, use, storage, processing, etc.) and at their cross-border shipment. A material condition for transfer of regulated chemicals and their precursors to other states is availability of warranties of their use for such purposes that are not prohibited by the Convention, and imports of such chemicals are restricted by the limited authority to use it for such purposes exclusively in such enterprises as are authorised to use such chemicals. The Convention also envisages provision by the member-states to the Organisation for the Prohibition of Chemical Weapons (OPCW) of information regarding imports of regulated chemicals and their use in the territories of member-states.

In order to implement the above, every export and import contract stipulating regulated chemicals is checked for compliance.

Question 30

According to the Resolution of the Government of the Russian Federation No. 1539 of 25 December 1998 "on the importation into and the exportation from the Russian federation of medicaments and pharmaceutical substances" the import of medicines is performed under licenses issued by the Ministry of Trade of Russia.

Are those licenses automatic, not automatic? What are the criteria used by the Ministry of Trade to issue such a license?

Answer:

The licenses in question are not automatic. The Ministry of Economic Development and Trade of the Russian Federation requires prior authorisation by the Ministry of Health or the Ministry of Agriculture. See also Answer 29.

Question 31

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.

What do you mean with the expression "on a par"?

Answer:

We are not sure our understanding of your question is correct, but the mentioned resolution states, *inter alia*: "Auditors engaging in business activity through unincorporated enterprises and auditing organisations, including those organised jointly with foreign legal entities and natural persons, may only perform auditing activity in the Russian Federation if licensed to do so".

(g) Other border measures

Question 32

Restrictions on border entry for poultry. At the May 2000 Working Party meeting, Russia indicated that Order No. 531, which established customs entry points for poultry products, would be amended to bring it into conformity with GATT Articles I and V.6.

- **We would appreciate additional information concerning the application of State Customs Committee Order No. 531, which establishes that poultry imports from countries without an overland border with Russia must enter through one of 30 seaport customs posts in Russia. We consider these restrictions a violation of Article V of the GATT, and we seek information on any changes in Order No. 531 that could improve the situation.**
- **Russia announced at the May 2000 Working Party meeting that amendments to Order No. 531 would soon be implemented to ensure that this order would come into conformity with WTO rules.**
- **Have amendments been enacted? If not, could you provide an update on how the status of this process? If so, please provide a copy of the amendments and describe them to the Working Party.**
- **We can appreciate Russia's concerns with smuggling and other attempts to circumvent customs procedures. However, we believe that there are better, WTO-consistent methods to deal with these problems, and we encourage Russia to bring Order No. 531 into compliance with WTO rules as soon as possible.**

Answer:

The Order of the State Customs Committee of the Russian Federation No. 531 of 12 August 1999 "On Appointment of Russian Cross-Border Entry Check-Points for Poultry" (hereinafter the "Order") appoints entry points for poultry and offal originating from such states that do not have overland borders with the Russian Federation and intended for consumption in the territory of the Russian Federation. Import of the said category of goods is possible through any of the 30 cross-border check-points listed in the Order. By this Order the State Customs Committee exercised its right pursuant to Articles 27 and 127 of the Customs Code of the Russian Federation to appoint customs clearance points. The Order regulates movement of goods (Code 0207 in the Commodity Nomenclature of Foreign Economic Activity of the CIS) included in the "high risk" group of goods and being the most likely objects of circumvention of customs rules.

While this Order covers only goods for consumption on the territory of the Russian Federation it does not violate Article V of the GATT.

Question 33

As regards the Border Measures mentioned under No. 115/119/124 could you please provide us with an exemplar of the amended version of the custom Code of the Russian Federation?

Answer:

See the answer to Question 39.

Question 34

As regards the Border Measures mentioned under No. 115, does the Russian legislation foresee a suspension by the customs authorities of the release of infringing goods destined for exportation from the Russian territory as proposed in Article 51 TRIPS in fine?

Answer:

Under the draft new Customs Code of the Russian Federation (hereinafter the "draft new CC") customs clearance and customs control involve a suspension of release of goods crossing the customs border of the Russian Federation if there is any indicator of counterfeiting. Under the Russian

Customs Law cross-border movement of goods means undertaking actions necessary for import into and export from the customs territory (as provided under TRIPS Article 51).

Question 35

As regards the Border Measures mentioned under No. 119, does the Russian legislation foresee, in appropriate cases, as provided in Article 55 TRIPS, an extension by another 10 working days of the time-limit of 10 working days during which the applicant has to initiate proceedings leading to a decision on the merits of the case?

Answer:

The draft new CC provides that upon the declarant's request the suspension of release (ten working days) may be extended to twenty working days as provided under TRIPS Article 55.

Question 36

As regards the Border Measures mentioned under No. 124, could you please provide us with additional information as to the interpretation given in the Russian legislation (in particular in the CsC) of the de minimis imports clause as foreseen in Article 60 TRIPS?

Answer:

The draft new CC provides that protective measures for intellectual property rights shall not be applied by customs authorities in respect of goods containing objects of intellectual property and crossing the customs border in international mail or carried cross-border by natural persons if such goods are not intended for commercial use.

Resolutions of the Government of the Russian Federation (including No. 784 of 10 July 1999) envisage that cross-border movement of non-commercial goods into or from the Russian Federation may be restricted for quantity or value in keeping with the existing procedures. This is not inconsistent with TRIPS Article 60.

(h) Customs Valuation

Question 37

Please provide a status report on the preparation and implementation of any new legislation in the field of customs valuation.

Answer:

A list of Russian legislation and regulations governing customs valuation is given in document WT/ACC/RUS/37Rev.1 of 30 October 2000, pp. 7 – 8.

The Russian regulatory and legal framework for customs valuation is being revised now to provide for its conformity with the WTO rules and disciplines.

The second part of the Tax Code provides for a special chapter entitled "Taxes and Levies" establishing the procedure for customs valuation conforming to the provisions of Article VII of GATT 94 and the Agreement on Implementation of Article VII of GATT 94. This draft legislation is planned for consideration by State Duma in the fall of 2001.

Question 38

The answer to Question 41 (WT/ACC/RUS/38) lists a number of fees and charges levied by customs authorities on consignments of imported goods (for example, in relation to customs clearance, storage, escort services, issuance of licenses, certificates, provision of information and consultation on current rules, preliminary decisions and participation in public auctions). Are all these fees and charges still levied in the manner and at the rates described?

Answer:

According to Article 110 of the Customs Code, which contains the exhaustive list of customs fees and charges for the services rendered, such fees are as follows.

Fees and charges for customs services related to importation or exportation

Description of Service Rendered/Purpose of Fees	Rate Applied
Customs charge for customs clearance ¹	0.1 per cent of the customs value of the goods in rubles
Additional customs charge for customs clearance	0.05 per cent of the customs value of goods in foreign currency
Customs charges for storage of goods ^{2,3} <ul style="list-style-type: none"> - in temporary storage warehouses, where the goods to be placed before the customs clearance - the same in specially accommodated warehouses - in customs warehouses for goods placed under the customs warehouse regime 	0.02 Euro/kg of gross weight for every 24 hours 0.03 Euro/kg of gross weight for every 24 hours 0.04 Euro/kg of gross weight and 3 Euro/vehicle per every 24 hours
Customs charges for customs escort of goods <ul style="list-style-type: none"> a) for each motor and rail way vehicle utilized either for the transportation of goods or which moves under its own power to be used as a commodity <ul style="list-style-type: none"> - for the distance up to 50 km - for the distance from 50 to 100 km - for the distance from 100 to 200 km - for the distance over 200 km 	20 minimum wages (2,000 rubles) 30 minimum wages (3,000 rubles) 40 minimum wages (4,000 rubles) 60 minimum wages (6,000 rubles)
Payment for the information and consultation	0.2-50 US \$ depending upon the amount the information provided and short notice
Payment for taking preliminary decision on classification of goods according to HS codes	5 minimum wages (500 rubles)

The fees and charges listed above are related to approximate cost of the services. The revenues generated by these fees are remitted to the general revenues of the State budget.

Question 39

In answer to Question 38 of WT/ACC/RUS/38 it is indicated that new customs legislation is currently being considered for insertion in the new customs code . The structure and content of the new Customs code have not been finally defined yet. In document WT/ACC/SPEC/RUS/12, Russia indicated that the draft concerning the new version of the Customs Code of the Russian Federation was adopted in the first reading by the Duma in late November 1999.

¹ The State Customs Committee may reduce customs charge for customs clearance to zero

² For the warehouses established by customs authorities only

³ The customs authorities may reduce the charges for storage by half of the maximum

Could Russia please elaborate on the stage of adoption of this new Customs Code? When will it be implemented? Please, provide also an English version of the new Customs Code.

Answer:

The draft new Customs Code of the Russian Federation is at the final stage of preparation and passes the procedure of legal analysis. This draft provides for its full conformity with the WTO rules and disciplines as well as provisions of the new version of the Kyoto Convention.

Question 40

In answer to Question 41 of WT/ACC/RUS/38 it is indicated that an additional charge is levied on the customs clearance of goods in foreign currency in the amount of 0.05 per cent of the customs value of the goods.

Could Russia give more details about this additional charge? To which kind of services does this additional charge correspond

For which reasons is this charge levied in addition to the 0.1 per cent customs charges for customs clearance?

Could Russia also indicate what is the "minimum monthly wages" and to which amount it corresponds?

Answer:

All issues associated with levying of charges for customs clearance of goods are regulated by Article 114 of the Customs Code of the Russian Federation and the Instruction on Levy of Customs Charges for Customs Clearance approved by the Order of the State Customs Committee No. 1010 of 9 November 2000.

The charge for customs clearance of goods, including vehicles crossing the customs border of the Russian Federation as goods, and non-commercial goods moved in unescorted luggage, international mail and cargoes, and of means of transportation, is levied, unless otherwise provided for under Russian law, in the currency of the Russian Federation in the amount of 0.1% of the customs value of such goods and vehicles. The charge for customs clearance of any goods other than non-commercial goods is added with a supplementary charge in foreign currency at such rate as quoted by the Central Bank of the Russian Federation in the amount of 0.05% of customs value of goods and vehicles.

According to the current legislation the minimal monthly wage is 100 rubles.

(m) Anti-dumping regime

Question 41

The answer to Question 60 of WT/ACC/RUS/38 does not explicitly refer to how confidential information is to be treated.

Please explain how Russia will implement in its legal provisions the requirements to have standards for granting information confidential treatment?

Answer:

The legal provisions for granting confidential treatment to the information are stipulated in Article 16 of the Customs Code, in Federal Law № 24-FZ "On Information, Informatization and Protection of Information" of 20 February 1995 and in Federal Law № 85-FZ "On Participation in International Data Interchange" of 4 July 1996. Taking into consideration the provisions of Article 6 of the Agreement on Implementation of Article VI of GATT 94 and Article 12 of the Agreement on Subsidies and Countervailing Measures a special article concerning standards for according information confidential treatment is included in the new version of Federal Law № 63.

2. Export Regulation**(b) Customs tariff nomenclature, types of duties, duty rates, weighted averages of rates****Question 42**

Export tariffs were introduced in 1999 to increase the revenues of the federal budget of Russia.

Until when do you plan to keep them? What do you consider as "super profits"? How are export duties compatible with a market oriented economy? In document WT/ACC/RUS/33 the rate of the export duties is 5 per cent and in document WT/ACC/RUS/33/Rev.1 the rate is 6.5 per cent. Could you indicate for which reasons the rates are different in the two documents? What is the level of the increased export duty rates for non-ferrous metals scrap, seeds of oil-yielding, valuable varieties of hard-leafed timber? Is this list exhaustive?

Answer:

The complete list of goods subject to export duties and the rates of such duties are as follows.

Export Tariff of the Russian Federation (May 2001)		
Code	Description of products	Rate of duty in % of customs value or in Euros
1	2	3
0301	Live fish:	5
0301 10	Ornamental fish:	0
0302	fish, fresh or chilled, excluding fish fillets and other fish meat of heading No. 0304, except:	5
0302 31	--albacore or long finned tunas (<i>Thunnus alalunga</i>):	0
0302 32	--yellowfin tuna (<i>Thunnus albacares</i>):	0
0302 33	--skipjack or stripe-bellied bonito:	0
0302 39 110 0	----bluefin tuna (<i>Thunnus thynnus</i>)	0
0302 61	--sardines (<i>Sardina Pilchardus</i> , <i>Sardinops</i> spp.), <i>Sardinella</i> (<i>Sardinella</i> spp.), brisling or sprats (<i>Sprattus sprattus</i>):	0
0302 64	--mackerel (<i>Scomber scombrus</i> , <i>Scomber australasicus</i> , <i>Scomber japonicus</i>):	0
0302 65	--dogfish and other sharks:	0
0303	Fish frozen, excluding fish fillets and other fish meat of heading No. 0304:	5
0303 41	--albacore or long finned tunas (<i>Thunnus alalunga</i>)	0
0303 42	--yellowfin tunas (<i>Thunnus albacares</i>):	0
0303 43	--skipjack or stripe-bellied bonito:	0

1	2	3
0303 71	--sardines (<i>Sardina pilchardus</i> , <i>Sardinops</i> spp.), <i>Sardinella</i> (<i>Sardinella</i> spp.), brisling or sprats (<i>Sprattus sprattus</i>):	0
0303 74	--mackerel (<i>Scomber scombrus</i> , <i>Scomber australasicus</i> , <i>Scomber japonicus</i>):	
0303 75	--dogfish and other sharks:	0
0306	Crustaceans, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; crustaceans in shell, cooked by steaming or by boiling in water, whether or not chilled, frozen, dried, salted or in brine; flours, meals and pellets of crustaceans for usage for eating, except:	10
0306 19 900 0	flours, meals and pellets of crustaceans for usage for eating	0
0306 29 900 0	flours, meals and pellets of crustaceans for usage for eating	0
0307	Molluscs, whether in shell or not, live, fresh, chilled frozen, dried, salted or in brine; aquatic invertebrates other than crustaceans and molluscs, live, fresh, chilled, frozen, dried, salted or in brine; flours, meals and pellets of aquatic invertebrates for usage for eating, except:	5
0307 99 900 0	flours, meals and pellets of aquatic invertebrates for usage for eating	0
1201 00	Soya beans, whether or not broken:	20, but not less than 35 Euro per 1,000 kg
1205 00	Rape or colza seeds, whether or not broken:	20, but not less than 35 Euro per 1,000 kg
1206 00	Sunflower seeds, whether or not broken :	20, but not less than 30 Euro per 1,000 kg
1605 10 000 0	Crabs	5
1605 20	Shrimps and prawns, except:	5
1605 20 100 0	-- in airtight packings	0
1605 30 000 0	Lobsters	5
1650 40 000 0	Other crustaceances	5
1605 90 900 0	Other aquatic invertebrates	5
2207	Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol. or higher; ethyl alcohol and other spirits, denatured, of any strength:	6.5
2208	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol.; spirits, liqueurs and other spirituous beverages, except:	6.5
2208 60	- Vodka:	0
2208 70	- liqueurs and cordials:	0
2501 00	Salt (including table salt and denatured salt) and pure sodium chloride, whether or not in aqueous solution or containing added anti-caking or free-flowing agents; sea water:	6.5
2502 00 000 0	Unroasted iron pyrites	6.5
2503 00	Sulphur of all kinds, other than sublimed sulphur, precipitated sulphur and colloidal sulphur:	6.5
2504	Natural graphite:	6.5
2505	Natural sands of all kinds, whether or not Natural sands of all kinds, whether or not of Chapter 26:	6.5
2506	Quartz (other than natural sands); quartzite, whether or not roughly trimmed or merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape:	6.5

1	2	3
2507 00	Kaolin and other kaolinic clays, whether or not calcined:	6.5
2508	Other clays (not including expanded clays of heading No. 6806), andalusite, kyanite and sillimanite, whether or not calcined; mullite; chamotte or dinas earths:	6.5
2509 00 000 0	Chalk	6.5
2510	Natural calcium phosphates, natural aluminium calcium phosphates and phosphatic chalk:	6.5
2511	Natural barium sulphate (barytes); natural barium carbonate (witherite), whether or not calcined, other than barium oxide of heading No. 2816:	6.5
2512 00 000 0	Siliceous fossil meals (for example, kieselguhr, tripolite and diatomite) and similar siliceous earths, whether or not calcined, of an apparent specific gravity of 1 or less	6.5
2513	Pumice stone; emery; natural corundum, natural garnet and other natural abrasives, whether or not heat-treated:	6.5
2514 00 000 0	Slate, whether or not roughly trimmed or merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape	6.5
2515	Marble, travertine, ecaussine and other calcareous monumental or building stone of an apparent specific gravity of 2.5 or more and alabaster, whether or not roughly trimmed or merely cut, by sawing or otherwise, into blocks or slabs of a rectangular	6.5
2516	Granite, porphyry, basalt, sandstone and monumental or building stone, whether or not roughly trimmed or merely cut, by sawing or otherwise, into blocks or slabs of a rectangular(including square) shape:	6.5
2517	Pebbles, gravel, broken or crushed stone, of a kind commonly used for concrete aggregates, for road metalling or for railway or other ballast, shingle and flint, whether or not heat-treated; macadani of slag, dross or similar industrial waste, etc.	6.5
2518	Dolomite, whether or not calcined; dolomite roughly trimmed or merely cut, by sawing or otherwise, into blocks or slabs of a rectangular(including square) shape; agglomerated dolomite(including tarred dolomite):	6.5
2519	Natural magnesium carbonate (magnesite); fused magnesia; dead-burned (sintered) magnesia, whether or not containing small quantities of other oxides added before sintering; other magnesium oxide, whether or not pure:	6.5
2520	Gypsum; anhydrite; plasters (consisting of calcined gypsum or calcium sulphate), whether or not coloured, with or without small quantities of accelerators or retarders:	6.5
2521 00 000 0	Limestone flux; limestone and other calcareous stone, of a kind used for the manufacture of lime or cement	6.5
2522	Quicklime, slaked lime and hydraulic lime, other than calcium oxide and hydroxide of heading No. 2825:	6.5
2523	Portland cement, aluminous cement, slag cement, super sulphate cement and similar hydraulic cements, whether or not coloured or in the form of clinkers:	6.5
2524 00	Asbestos:	6.5
2525	Mica, including splitting; mica waste:	6.5
2526	Natural steatite, whether or not roughly trimmed or merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape; talc:	6.5
2527 00 000 0	Natural cryolite and natural chiolite	6.5

1	2	3
2528	Natural borates and concentrates thereof, (whether or not calcite), but not including borates separated from natural brine; natural boric acid containing not more than 85% of H ₃ BO ₃ calculated on the dry weight:	6.5
2529	Felspar; leucite, nepheline and nepheline syenite; fluorspar:	6.5
2530 10	-vermiculite, perlite and chlorites, unexpanded:	6.5
2530 20 000 0	-kieserite and epsomite (natural magnesium sulphates)	6.5
2530 40 000 0	-natural micaceous iron oxides	6.5
2530 90 200 0	--sepiolite	6.5
2530 90 950 0	--other	6.5
2601	Iron ores and concentrates, including roasted iron pyrites:	6.5
2602 00 000 0	Manganese ores and concentrates, including manganiferous iron ores and concentrates with a manganese content of 20% or more, calculated on the dry weight, except:	6.5
2603 00 000 0	Copper ores and concentrates, except:	6.5
ex.2603 00 000 0	Concentrate of copper with a arsenic content of 0,6% or more	0
2604 00 000 0	Nickel ores and concentrates	6.5
2605 00 000 0	Cobalt ores and concentrates	6.5
2606 00 000 0	Aluminium ores and concentrates	6.5
2607 00 000 0	Lead ores and concentrates	6.5
2608 00 000 0	Zinc ores and concentrates	6.5
2609 00 000 0	Tin ores and concentrates	6.5
2610 00 000 0	Chromium ores and concentrates	6.5
2611 00 000 0	Tungsten ores and concentrates	6.5
2612	Uranium or thorium ores and concentrates:	6.5
2613	Molybdenum ores and concentrates:	6.5
2614 00	Titanium ores and concentrates	6.5
2615	Niobium, tantalum, vanadium or zirconium ores and concentrates:	6.5
2616	Precious metal ores and concentrates:	6.5
2617	Other ores and concentrates:	6.5
2618 00 000 0	Granulated slag (slag sand) from the manufacture of iron or steel	6.5
2619 00	Slag, dross (other than granulated slag), scalings and other waste from the manufacture of iron or steel:	6.5
2620	Ash and residues (other than from the manufacture of iron or steel), containing metals or metal compounds:	6.5
2621 00 000 0	Other slag and ash, including seaweed ash (kelp)	6.5
2704 00	Coke and semi-coke of coal, of lignite or of peat, whether or not agglomerated; retort carbon:	6.5
2705 00 000 0	Coal gas, water gas, producer gas, and similar gases, other than petroleum gases and other gaseous hydrocarbons	5
2706 00 000 0	Tar distilled from coal, from lignite or from peat, and other mineral tars, whether or not dehydrated or partially distilled, including reconstituted tars	5
2707	Oils and other products of the distillation of high temperature coal tar; similar products in which the weight of the aromatic constituents exceeds that of the non-aromatic constituents:	5
2708	Pitch and pitch coke, obtained from coal tar or from other mineral tars:	5
2709 00	Petroleum oils and oils obtained from bituminous minerals, crude:	22 Euro

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2710 00	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing 70% or more by weight of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic, except:	5
2710 00 110 0	--for undergoing a specific process	39 Euro
2710 00 390 0	-----other light oils	
2710 00 410 0	--for undergoing a specific process	39 Euro
2710 00 590 0	---other	
2710 00 610 0	---for undergoing a specific process	39 Euro
2710 00 690 0	---for other purposes	
2710 00 710 0	---for undergoing a specific process	20 Euro
2710 00 780 0	----with sulphur content exceeding 2.8% by weight	20 Euro
2711	Petroleum gases and other gaseous hydrocarbons, except:	5
2711 11 000 0	--natural gas	40 Euro per 1,000 kg
2711 12	--propane:	40 Euro per 1,000 kg
2711 13	--butanes:	40 Euro per 1,000 kg
2711 14 000 0	--ethylene, propylene, butylene and butadiene	40 Euro per 1,000 kg
2711 19 000 0	--other	40 Euro per 1,000 kg
2711 21 000 0	--natural gas	10, but not less than 5 Euro per 1,000 kg
2714	Bitumen and asphalt, natural; bituminous or oil shale and tar sands; asphaltites and asphaltic rocks, except:	5
2714 10 000 0	-bituminous or oil shale and tar sands	0
2715 00	Bituminous mixtures based on natural bituminous mixtures based on natural bitumen, on mineral tar or on mineral tar pitch (for example, bituminous mastics, cut-backs):	5
ex. 2805	Alkali or alkaline-earth metals; rare-earth metals, scandium and yttrium, whether or not intermixed or interalloyed; mercury, except:	6.5
2805 21 000 0	--calcium	0
2818 20 000 0	-aluminium oxide, other than artificial corundum	6.5
2818 30 000 0	-aluminium hydroxide	6.5
2825	Hydrazine and hydroxylamine and their inorganic salts; other inorganic bases other metal oxides, hydroxides and peroxides:	6.5
2902 41 000 0	- o-xylene	6.5
2902 43 000 0	--p-xylene	
2902 50 000 0	-styrene	6.5
2905 13 000 0	--butan-1-ol (n-butyl alcohol)	6.5
2907	Phenols; phenol-alcohols:	
2907 23 100 0	---4,4'-isopropylidenediphenol (bisphenol A, diphenylolpropane)	0
2933 71 000 0	--6-hexanelactam (epsilon-caprolactam)	6.5
3102 10	-urea, whether or not in aqueous solution:	5, but not less than 4 Euro per 1,000 kg
3102 30	-ammonium nitrate, whether or not in aqueous solution:	5
3104 10 000 0	-carnallite, sylvite and other crude natural potassium salts	5
3104 30 000 0	potassium sulphate	5

1	2	3
3104 90 000 0	-other	5
3104 20	-potassium chloride:	5
3105	Mineral or chemical fertilizers containing two or three of the two fertilizing elements nitrogen, phosphorus and potassium; other fertilizers; goods of this chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg	5
3901	Polymers of ethylene, in primary forms	6.5
3902	Polymers of propylene or other olefins, in primary forms::	6.5
3904	Polymers of vinyl chloride or other halogenated olefins, in primary forms:	
3904 61 900 0	---other	0
3904 69 000 0	--other	0
4101	Raw hides and skins of bovine or equine animals, fresh or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or further prepared, whether or not dehaired or split:	20, but not less than 210 Euro per 1,000 kg
4102	Raw hides and skins of sheep and lambs, fresh or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or further prepared, whether or not dehaired or split, other than those excluded by Note 1 c) to this Chapter:	20, but not less than 150 Euro per 1,000 kg
4103	Other raw hides and skins, fresh or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or further prepared, whether or not dehaired or split other than those excluded by Note 1 b) or 1 c) to this Chapter:	20, but not less than 125 Euro per 1,000 kg
4104	Leather of bovine or equine animals, dehaired, other than leather of heading No. 4108 or 4109:	10, but not less than 90 Euro per 1,000 kg
4105	Sheep or lamb skin leather, without wool on, other than leather of heading No. 4108 or 4109:	10, but not less than 70 Euro per 1,000 kg
4107	Leather of other animals, without hair on, other than leather of heading No. 4108 or 4109:	10, but not less than 60 Euro per 1,000 kg
4401	Firewood, in the form of logs, billets, twigs, faggots or similar; wood chips or particles; sawdust, wood waste and scrap, whether or not agglomerated into logs, briquettes, pellets, or similar forms:	5
4402 – 4421	Wood and wooden articles, charcoal, except:	10, but not less than 5 Euro per 1 m ³
4403 20	-other, coniferous:	6.5, but not less than 2,5 Euro per 1 m ³
4403 10 900 1	others of oak, beech, asp	20, but not less than 24 Euro per 1 m ³
4403 91 000 0	--of oak (<i>Quercus</i> spp.)	20, but not less than 24 Euro per 1 m ³
4403 92 000 0	--of beech (<i>Fagus</i> spp.)	20, but not less than 24 Euro per 1 m ³
4403 99 500 0	Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared of birch	5

1	2	3
4403 99 990 1	---of poplar	20, but not less than 24 Euro per 1 m3
4403 99 990 9	Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared of asp	0
4407 10	Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, with a thickness exceeding 6 mm:	6.5, but not less than 5 Euro per 6 mm
4407 91	others of oak	10, but not less than 10 Euro per 1 m3
4407 92	others of beech (Fagus spp.)	10, but not less than 10 Euro per 1 m3
ex. 4407 99	others of poplar	10, but not less than 12 Euro per 1 m3
ex. 4408 90	Veneer sheets, sheets for plywood (whether or not spliced) and other wood, sawn lengthwise, sliced or peeled of oak, beech, asp	5, but not less than 6 Euro per 1 m3
ex. 4409 20	Wood of oak, beech, asp	5, but not less than 6 Euro per 1 m3
4411 11 000 0	Fibreboard of wood not mechanically worked or surface-coated (covered) with density 0,8 g/cm3	0
4411 19 000 0	Fibreboard of wood not mechanically worked or surface-coated (covered) with density 0,8 g/cm3, other	0
4419 00 900 0	Tableware and kitchenware, of wood:	0
4420 10 190 0	--of other wood	0
4701 00	Mechanical wood pulp:	10
4707	Waste and scrap of paper or paperboard:	10
4703 21 000 0	Chemical wood pulp, soda or sulphate, other than dissolving grades:	10, but not less than 40 Euro per 1,000 kg
4704 21 000 0	Chemical wood pulp, sulphite other than dissolving grades:	10, but not less than 40 Euro per 1,000 kg
4801 00	Newsprint, in rolls or sheets:	10
4823	Other paper, paperboard, cellulose wadding and webs of cellulose fibres, cut to size or shape; other articles of paper pulp, paper, paperboard, cellulose wadding or webs of cellulose fibres:	10
7101	Pearls, natural or cultured, whether or not worked or graded, but not strung, mounted or set; ungraded pearls, natural or cultured, temporarily strung for convenience of transport:	6.5
7112	Waste and scrap of precious metal or of metal clad with precious metal; other waste and scrap containing precious metal or its compound intended for extracting precious metal:	6,6
ex.7102 39 000 0	diamonds	0
7108	Gold (including gold plated with platinum), unwrought or in semi-manufactured forms or in powder form	5
7201	Pig iron and spiegeleisen, in pigs, blocks or other primary forms:	5
7203	Ferrous products obtained by direct reduction of iron ore and other spongy ferrous products, in lumps, pellets or similar forms; iron having a minimum purity by weight of 99.94%, in lumps, pellets or similar forms:	5
7205	Granules and powders of pig iron, spiegeleisen, iron or steel:	5

1	2	3
7229	Wire of other alloy steel:	5
7204	Ferrous waste and scrap; remelting scrap ingots of iron or steel:	5
7204 41	– – turnings, shavings, chips, milling waste, sawdust, filings, trimmings and stampings, whether or not in bundles:	15, but not less than 15 Euro per 1,000 kg
7401	Copper mattes; cement copper(precipitated copper):	10
7402 00 000 0	Unrefined copper; copper anodes for electrolytic refining	10
7403	Refined copper and copper alloys, unwrought :	10
7404 00	Copper waste and scrap:	50, but not less than 420 Euro per 1,000 kg
7405 00 000 0	Master alloys of copper	10
7501	Nickel mattes, nickel oxide sinters and other intermediate products of nickel metallurgy:	10
7502	Unwrought nickel:	10
7503 00	Nickel waste and scrap:	30, but not less than 720 Euro per 1,000 kg
7601	Unwrought aluminium:	5
7602 00	Aluminium waste and scrap:	50, but not less than 380 Euro per 1,000 kg
7801	Unwrought lead:	6.5
7802 00 000 0	Lead waste and scrap	30, but not less than 105 Euro per 1,000 kg
7901	Unwrought zinc:	10
7902 00 000 0	Zinc waste and scrap	30, but not less than 180 Euro per 1,000 kg
8001	Unwrought tin:	6.5
8002 00 000 0	Tin waste and scrap	6.5
8101 91	– – unwrought tungsten (wolfram), including bars and rods obtained simply by sintering; waste and scrap:	6.5
8102 91	– – unwrought molybdenum, including bars and rods obtained simply by sintering; waste and scrap:	6.5
8103 10	– unwrought tantalum, including bars and rods obtained simply by sintering; waste and scrap; powders :	6.5
8105 10 900 0	– – waste and scrap	30, but not less than 1,200 Euro per 1,000 kg
8106 00	Bismuth and articles thereof, including waste and scrap :	6.5
8107	Cadmium and articles thereof, including waste and scrap	6.5
8108 10 100 0		6.5
8108 10 900 0	– – waste and scrap	30, but not less than 225 Euro per 1,000 kg
8109	Zirconium and articles thereof, including waste and scrap :	6.5
8110 00	Antimony and articles thereof, including waste and scrap	6.5
8111 00	Manganese and articles thereof, including waste and scrap:	6.5
8112	Beryllium, chromium, germanium, vanadium, gallium, hafnium, indium, niobium (columbium), rhenium and thallium, and articles of these metals, including waste and scrap	6.5

The duration of the export duties depends upon the time schedule of Russia's payments against its debts to international financial organizations. After the four-fold devaluation of ruble per dollar in August 1998 the profits of Russian exporters increased automatically four times, enabling them to get extraordinary profits. Export duties are compatible with market economy principle as long as the same holds true for taxes in general and especially for rent payments.

3. Internal policies affecting foreign trade in goods

(a) Industrial policy, including subsidy policies

Question 43

It appears that the following request concerning WT/ACC/SPEC/RUS/11 was not addressed: The problem of widespread tax and expenditure arrears at all levels of Government in Russia has given rise over the last couple of years to the use of "offset" instruments to settle mutual claims between the Government and taxpayers. The discount generally associated with such arrangements leads implicitly to the indirect subsidization of some industrial sectors, depending on the details of the arrangements. Obviously, this is not covered by the document before us.

Could the Russian Government provide some information on this situation, especially at the regional and subregional level, and clarify whether such practices will be or are being phased out?

Answer:

The earlier used practice of writing off tax debts is not mandated by the legislation now in force and is not currently maintained. Pursuant to Decree No. 1173 of the President of the Russian Federation "On Supplementary Measures of Mobilization of Cash Revenues of the Federal Budget" dated 7 November 1997, effective 1 January 1998 the Government of the Russian Federation prohibited all forms of offset of tax obligations (arrears) of organizations to the Federal Budget.

The Tax Code provides the Procedure for recognizing and writing off bad debts and arrears of penalties on federal taxes and levies, providing that debts and arrears of payment of penalties on federal taxes and levies shall be recognized as bad debts and written off in the following cases:

- liquidation of an organization as required by Russian laws;
- declaration of an individual entrepreneur bankrupt under the Federal Law "On Insolvency (Bankruptcy)" – to the extent of the debt unpaid due to insufficiency of property of the debtor;
- death of a natural person or their declaration as dead by a court – indebtedness on taxes and levies to the extent of property taxes – in the amount in excess of his/her inheritance, or in the case the state takes over the inheritance.

No other grounds for writing off arrears of penalty payments are provided.

As it stands, the current procedure for writing off arrears of taxes and levies, exaction and write-offs of penalties and fines does not contravene international norms.

- (b) **Technical regulations and standards, including measures taken at the border with respect to imports**

Question 44

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.

Can you confirm that the possibility to establish a declaration of the producer according to Russian prescriptions is open to all producers, independently from their origin? (conformity with Article 2.1 TBT)

Answer:

Pursuant to Resolution No. 766 of the Government of the Russian Federation dated 7 July 1999, any organization registered in the Russian Federation as a legal entity and representing foreign producers (vendors, executors) irrespective of the country of origin may submit own conformity declarations in respect of products approved by this Resolution.

Question 45

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.

Is Resolution No 601 now in force? What are the effects?

Answer:

Government Resolution No. 601 of 17 May 1997 (as amended on 19 September 1997 and 20 October 1998) applies restrictively to audio and video-products and hardware indiscriminately for imported and Russian-made goods and has been in effect since 1 October 1999, in order to protect the Russian consumer market against unsafe, off-grade, falsified, illicitly produced or illicitly circulated products.

Question 46

WT/ACC/RUS/33/Rev.2 refers. According to the Government Resolution No 403 of 24 May 2000 watches were included in the list of products subject to mandatory certification or self declaration of conformity.

Could the Russian Federation indicate if other laws or resolutions are applicable for the certification of imported watches? What are the reasons to impose such a certification and on which criteria is based? Please provide the text of the relevant legislation.

Answer:

The certification of watches, both imported and domestically made, is regulated by:

Federal Law 2-FZ "On Protection of Consumer Rights" dated 9 January 1996 (as amended and supplemented on 17 December 1999); Resolution No. 403 of the Government "On Supplementing the List of Goods Subject to Mandatory Certification and the List of Products Whose Conformity May Be Confirmed by Conformity Declaration" dated 24 May 2000; Resolution No. 65 "On Supplementing the "Nomenclature of Products and Services for Which Mandatory Certification is Prescribed by Legislative Acts of the Russian Federation" dated 8 September 2000.

Question 47

The answer to Question 79 (WT/ACC/RUS/38) refers to TBT measures being taken by subjects of the Russian Federation. Can the Russian Federation give examples of cases where TBT measures could be taken at the sub-federal level and specify the nature of such measures (standards, technical regulations)? In addition, how will the Russian Federation concretely ensure that these measures fully conform with the provisions of the TBT Agreement and what practical means will federal authorities have at their disposal to put an end to deviations from these principles?

Answer:

Pursuant to Articles 71 and 73 of the Constitution of the Russian Federation, the regional authorities of the Russian Federation are not entitled to maintain any own regional standards or mandatory certification systems. On the other hand, they are authorized to introduce regional technical regulations.

Pursuant to Article 76 of the Constitution of the Russian Federation, laws and other legal acts of the Russian Federation regions must not contravene federal laws. In the case of any conflict between a federal law and any other act issued in the Russian Federation, the federal law shall apply.

The Russian party is not aware of any cases of regional technical regulations incompatible with federal legislation.

Question 48

The answer to Question 81 (WT/ACC/RUS/38) indicates that the Russian Federation has concluded bilateral agreements with 14 countries providing for mutual recognition of the test results of mutually imported products. Can Russia please provide more details on these agreements (e.g. countries and products or sectors concerned, certification procedures used)? Are these 14 agreements related to the agreements that govern the mutual recognition of the results of examinations/tests at the regional level in the CIS countries?

Answer:

The participants of the agreements in question are Bulgaria, Vietnam, Germany, India, Israel, Democratic People's Republic of Korea, China, Mongolia, Republic of Cuba, Republic of Korea, Poland, Singapore, Slovakia, Czech Republic, France and Italy.

The agreements apply to mutually distributed products subject to mandatory certification under the laws of the parties and do not affect Russia's commitments concerning its participation in certification works with CIS countries.

The above agreements govern works for mutual recognition of test results via mutual accreditation of test laboratories of the parties.

By "mutual accreditation" we mean accreditation as test laboratories of organizations of member-states of bilateral agreements concerning recognition of results of tests of homogeneous groups of products. The organization of and procedure for accreditation is determined by the rules maintained by the country performing the accreditation. No additional requirements are maintained.

Question 49

Within these bilateral agreements for mutual recognition of test results, Russia indicates that the recognition test data is facilitated by the mutual accreditation of laboratories performing such tasks. Furthermore, it is indicated that the results of conformity assessment carried out are recognised and taken into account for purposes of certification. What exactly is meant in this context by "mutual accreditation"? Does this mutual accreditation have any further requirement with regard to the international or European accreditation system? How are the results of conformity assessment taken into account in order to put products on the market?

Answer:

See the answer to Question 48.

Question 50

Russia also indicates in its answer to Question 81 (WT/ACC/RUS/38) that "an essential factor here is the availability of documents issued by officially authorized agencies of the exporting country confirming conformity of the product to international safety and quality standards". Does this mean that Russia may accept foreign certificates based on international standards without any further technical requirement? If yes, could Russia indicate the responsible authority for that in the field of sanitary and phytosanitary measures?

Answer:

Russia may recognize foreign certificates without raising any additional requirements where a corresponding international Agreement is available on mutual recognition of tests results, or where there exist documents (certificates or test protocols) confirming conformity of products to international standards. Such documents are issued by the competent authorities of the exporting countries accredited with the International certification systems in which Russia participates. The GOST R certification system currently has 61 foreign test laboratories in 23 foreign countries accredited with it.

See also the answers to Questions 48 and 60.

Question 51

Concerning the "reasonable period of time between the final publication of a technical regulation or conformity assessment procedure and its entry into force" (see document WT/ACC/SPEC/RUS/13, p.3) what sort of typical duration do the Russian authorities have in mind? Will some clear guidelines or binding principles be decided in this respect?

Answer:

Between the approval (adoption) date and the effective date of regulatory documents Russia provides a period of time necessary to complete the measures involved in the preparation for compliance with such requirements. As a rule such period will last from 6 months to one year.

Question 52

How long in advance will the Russian Federation publish its programmes in the various respective areas (standards, conformity assessment procedures, technical regulations)? With which periodicity? Has such publication already started? If so, in which publications and/or Internet websites is it available?

Answer:

The state standardization plan is annually published in the Informational Index of State Standards and is posted on the website of Gosstandart of Russia at www.GOSTR.RU.

Besides, information on work programs, documents developed and adopted in technical legislation, standardization or conformity confirmation may be obtained from Russian Single Contact Point for TBT/SPS (e-mail: ENPOINT@VNIKI.RU).

Question 53

Point 1.12 of the Annex to document WT/ACC/SPEC/RUS/13 refers to a “Resolution on the list of products subject to State registration and the terms of supplying such products to the consumer market of the RF”. What sort of products will this text cover? Same question with regard to point 1.13 of the same Annex (what sort of products is this intended to cover?).

Answer:

Resolution No. 988 of the Government of the Russian Federation "On State Registration of New Foodstuffs, Input and Products" dated 21 December 2000 (as amended by Resolution No. 324 of the Government of the Russian Federation dated 27 April 2001), introduces the requirement of state registration of new foodstuffs, input and products effective 1 January 2002. The said Resolution endorses the Regulations on state registration of new foodstuffs, input and products and the keeping of the State Registry of new foodstuffs, input and products allowed for manufacture in the territory of the Russian Federation or import to the Russian Federation, and circulation. The Regulations contain an Annex listing new foodstuffs, input and products, perfumes and cosmetics, hygienic products for mouth cavity and tobaccos subject to state registration.

Question 54

Can the Russian Federation provide additional information on the various texts listed under item 1.15 of this same annex? Will these texts introduce simplifications of the existing, cumbersome procedure? Can the Russian Federation commit itself to giving WTO Members the opportunity to comment on the drafts of these measures before they are adopted? We are especially interested in the “amendments and supplements to Resolution No 1013 (1997) and Resolution No 766 (1999)”: is this text intended to simplify the procedure organised under Resolution No 766? What will be the link between this new Resolution and the future law on conformity assessment that is referred to under item 1.4 of the same Annex?

Answer:

For the purposes of drafting amendments and supplements to the Resolutions of the Government of the Russian Federation: No. 1013 "On Approval of the List of Products Subject to Mandatory Certification and the List of Works and Services Subject to Mandatory Certification" dated 13 August 1997, and 766 "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" dated 7 July 1999, it is proposed to reduce the list of goods subject to mandatory certification in order to dispense with redundant certification procedures, and to extend the list of products whose conformity may be confirmed by conformity declaration.

Extending the list of products whose conformity may be confirmed by self-declaration of conformity is likewise envisaged by the draft law "On Confirmation of Conformity of Products and Services to Regulatory Requirements" currently under development.

The commitment to provide the WTO members with an opportunity for comment on the draft laws and other regulatory and legal acts before their adoption will be implemented after Russia's accession to the WTO (as envisaged by draft law "On Technical Measures in Trade"; it is already done in certain cases).

Question 55

Point 2.7 of the same Annex (WT/ACC/SPEC/RUS/13, p.20) mentions "the development of requirements in respect of control over the quantity of packed goods in any kind of package, in the stage of packing, distribution and import". What does this refer to concretely? Is there not a risk that this will introduce new cumbersome rules in contradiction with the principles of proportionality and least trade-restrictiveness? How will these requirements be implemented in a transparent and non-discriminatory manner? Concerning point 3.2 of the same Annex (p.21) what does "excluding the variety of certificates" mean?

Answer:

Development of the said requirements is implemented pursuant to article 13 of document D1 of the International Organization of Legal Metrology and also in view of the practice of metrological control over packed goods being maintained by many countries. It is proposed to ensure harmonization of such requirements in respect of packing by mass and volume with EEC Directive 76/211 of 20 January 1976.

For these purposes the Russian Federation passed GOST R 8.579-2001 "Requirements in Respect of the Number of Items in All Kind of Package in Production, Packaging, Sale and Import", effective date 1 January 2002. Information on approval of this standard and its effective date may be obtained through TBT/SPS enquiry point.

"Excluding the variety of certificates" means abolishment of rules requiring one and the same commodity to be supplied with several certificates. (see the answer to Question 52).

Question 56

In document WT/ACC/RUS/23 (WT/ACC/RUS/38), the Russian Federation in its answer to Question 47 had indicated that the preparation of rules was pending for determining in a transparent and non-discriminatory manner which conformity assessment procedure would apply in any given specific case. Have these rules been determined in the meantime? Can the Russian Federation provide a synoptic table indicating which procedures/requirements apply

for each category of products? Will these rules be affected by the draft Law on Conformity Assessment (in preparation)?

Answer:

Pursuant to Amendment 1 to "Certification Procedure in the Russian Federation" approved by Resolution of Gosstandart of Russia No. 15 of 25 July 1996, to which the question refers, there are 16 certification schemes.

Schemes 1 to 8 are maintained in international and world practice and are classified by ISO.

Schemes 1a, 2a, 3a and 4a are modifications of schemes 1, 2, 3, and 4 respectively.

Schemes 9 – 10a involve using an application/declaration of the supplier's conformity.

Under this procedure (art. 3.2.4), the scheme of mandatory certification of products is provided by the certification authority based on application recommendations provided in Amendment 1 and on the documentary evidence submitted by the applicant certifying conformity of products to the existing requirements.

Pursuant to the said certification procedure in the Russian Federation (art. 4.5), this approach is applied indiscriminately to domestic and imported products.

Question 57

Can the Russian Federation provide WTO Members with additional information on its activities and involvement in the framework of the "Euro-Asia Inter-State Council for Standardisation, Metrology and Certification"? Can it in particular provide detailed information on the compatibility of the activities being undertaken in the framework of the Inter-State Council with the provisions of the TBT Agreement? To what extent is the Inter-State Council contributing to the promotion of international standards?

Answer:

Russia has actively participated in the work of the Interstate Council for Standardization, Metrology and Certification since it was first created (1992).

The bulk of standards are created by direct application of international ISO and IEC standards.

Gosstandart of Russia had developed standard laws endorsed by the Inter-parliamentary CIS Assembly "On standardization" and "On providing uniformity of measurement units" implementing the framework principles of the WTO TBT Agreement.

In 2000, the Council of Heads of CIS Governments passed the following instruments developed by Gosstandart of Russia:

Agreement on technical barriers in trade in the free trade area of the CIS member-states;

Amendments and supplements to the Agreement on coordinated policies in standardization, metrology and certification;

Interstate standardization program for safety of mutually supplied products and labour protection;

Pursuant to submission by the Interstate Council for Standardization, Metrology and Certification, the ISO Council recognized the Interstate CIS Council as the regional standardization organization for the CIS region by resolution ISQ26/1992 at a meeting that took place 13-14 September 1995.

Question 58

Is the Russian Federation planning to take steps in the near future to shorten significantly the list of products that remain subject to compulsory third-party certification?

Answer:

See the answer to Question 54.

Question 59

Could Russia update its Action Plan on the Implementation of the TBT Agreement, which would indicate in detail, with regard to each provision or requirement of the Agreement

- **whether it has already been implemented or if not;**
- **what difficulties are foreseen in implementing it;**
- **how Russia is planning to address these difficulties and to put the respective provision/requirement into effect;**
- **an indication of the timing for doing so.**

Answer:

See document WTO/ACC/SPEC/RUS/13/Rev.1 dated 12 April 2001.

(c) **Sanitary and phytosanitary measures**

Question 60

Russia has provided information on its legislative developments in the area of SPS measures. We look forward to reviewing it in more detail, and providing additional comments and questions.

We are would like to better establish what forms of oversight exist of the activities of some of the regulatory bodies, in particular the veterinary office, i.e., what forms of institutional accountability exist to ensure that these regulatory offices do not act unilaterally in ways that are WTO-inconsistent.

- **Could Russia please update the status of work described in Russia's December 1997 SPS Action Plan and the SPS/TBT checklist outlined in WT/ACC/SPEC/RUS/13?**
- **We are specifically interested in an update on Russia's progress in meeting institutional transparency requirements and removing redundant or unnecessary certification and conformity assessment requirements.**
- **We would also appreciate information concerning provisions being made for oversight of the activities of the regulatory bodies in the sanitary and phytosanitary field, in particular of the veterinary office. We seek information on mechanisms that exist or are**

in development that provide institutional accountability to ensure that regulatory offices do not act unilaterally in ways that are WTO-inconsistent.

Answer:

Issues of compliance with transparency requirements are addressed in the revised document WT/ACC/SPEC/RUS/13/Rev.1.

Gosstandart of Russia jointly with the Ministry of Health of Russia, the Ministry of Economic Development and Trade and other federal executive bodies concerned, is currently working on a new draft resolution of the Government of the Russian Federation on mandatory certification of products. This draft resolution will lift the unreasonable administrative barriers to market access of products. See the answer to Question 54.

The state sanitary and epidemiological service of the Russian Federation is a part of the Ministry of Health of the Russian Federation and reports to the Government of the Russian Federation. Its activity is pursuant to the Federal Law "On Sanitary and Epidemiological Well-being of the Population" and the Regulations of the State Sanitary and Epidemiological Service of the Russian Federation approved by Resolution of the Government of the Russian Federation No. 554 dated 24 July 2000.

There are no separate departments for veterinary issues and quarantine in the Russian Federation. The veterinary department and the State Inspectorate for quarantine of plants responsible for phytosanitary measures, and their structural subdivisions are units of the Ministry of Agriculture of the Russian Federation.

The package of documents submitted for sanitary and epidemiological evaluation must include a document from an officially authorized public agency of the country of manufacture of products certifying that the products have been manufactured under the laws of such country. For the purposes of veterinary control, Russia acknowledges foreign veterinary certificates if they confirm compliance of imports of a livestock cargo with the veterinary requirements of the Russian Federation. Veterinary requirements of Russia are pursuant to the International Veterinary Code of the International Office for Epizootics "Animal Health". The authority regulating the procedure for import of livestock cargoes to Russia is the Ministry of Health of Russia. For the purposes of phytosanitary measures, Russia recognizes phytosanitary certificates issued restrictively by public agencies authorized to provide quarantine of plants in the exporting country of products subject to quarantine.

Question 61

At the last meeting of the Working Party, a representative of the Russian Standards Committee indicated that the implementing regulations for the new Food Safety Law would be ready in the second quarter of 2000. What is the status of these regulations? Have they been implemented? Could we have a copy for review?

Answer:

The Resolution of the Government of the Russian Federation No. 295 of 16 April 2001 "On Making Amendments and Supplements to Certain Acts of the Government of the Russian Federation on Issues of Quality and Safety of Food Products" approved amendments and supplements to acts of the Government of the Russian Federation providing for quality and safety of food products, including:

- The Regulations on state veterinary surveillance in the Russian Federation approved by Resolution No. 706 of the Government of the Russian Federation of 19 June 1994.
- The Resolution of the Government of the Russian Federation No. 1263 of 29 September 1997 "On Endorsement of the Regulations on the Procedures for Examination of Off-grade and Unsafe Food Input and Food Products, Their Use or Destruction"
- The Rules of providing fee-paying veterinary services approved by Resolution of the Government of the Russian Federation No. 898 of 6 August 1998.

The following resolutions were passed by the Government of the Russian Federation:

- No. 883 "On Organization and Implementation of Monitoring of Quality, Safety of Food Products and Public Health" dated 22 November 2000
- No. 987 "On State Surveillance and Control over Provision of Quality and Safety of Food Products" dated 21 December 2000
- No. 988 "On State Registration of New Foodstuffs, Input and Products" dated 21 December 2000
- No. 324 "On Making Amendments to Resolution No. 988 of the Government of the Russian Federation of 21 December 2000" dated 27 April 2001.

See the answer to Question 50.

All texts of the above resolutions have been submitted to the WTO Secretariat.

(d) Trade-related investment measures

Question 62

At the May 2000 Working Party, in response to comments from delegations, Russia indicated that a Presidential Decree was being drafted that would remove local content requirements from the Aviation Decree and the Production Sharing Agreements by mid year, and that it was Russia's intention to stop applying TRIMS for automobile and aircraft investments by the end of 2000. Could we have an update on these proposals?

Answer:

The Federal Law "On Production Sharing Agreements" provides for the obligations of foreign investors which take part in production sharing schemes in Russia to place a proportion of their orders with Russian or foreign companies registered in Russia for purposes of the tax collection although the use of locally produced goods is not required.

The Resolution of the Government № 716 of 7 July 1998 "On Further Measures of State Support of Civil Aviation in Russia" provides for the obligations of Russian leasing companies which take part in leasing of foreign civil aircraft and enjoy additional concessions in customs payments with regard to such leased civil aircraft, temporarily imported in Russia, to sign a contract with domestic manufacturers for the purchase or leasing of Russian aviation equipment to the amount that exceeds up to three times the sum resulting from granting of customs preferences.

Thus, this Resolution deals with leasing not with the importation. Besides, its provisions for purchasing or leasing of Russian aviation equipment have never been fulfilled so far.

The Decree of the President № 135 of 5 February 1998 and the Resolution of the Government № 413 of 23 April 1998 "On Additional Measures to Attract Investments for Development of Domestic Automobile Industry" in order to qualify for the customs regime of free warehouse and

additional customs preferences provides for the obligation of foreign investors which take part in the development of Russian automobile industry to place in the charter capital of the Russian company, realizing such project, no less than 150 million rubles and to ensure that the share of expenditures made on the territory of the Russian Federation in five years after the start of such project should be no less than 50 % of the prime cost of the final product.

Although four investment agreements were signed following this scheme none of such projects has been realized completely so far. The draft new the Customs Code does not provide for such treatment of the customs regime of free warehouse in future.

(l) Government procurement practices

Question 63

We appreciate the opportunity to review Federal Law No. 97; "On Tenders for the Placement of Orders for the Supply of Goods, Performance of Works, Provision of Services for State Needs." We have substantive questions regarding this legislation as well as other procurement legislation cited in Law 97-FZ.

We continue to believe that membership in the WTO Agreement on Government Procurement (GPA) is the best manner in which to establish a transparent, open and predictable commercial environment. It will also open up new business opportunities for Russian suppliers in other GPA member's procurement markets. We encourage the Russian Federation to undertake a commitment to accede to the GPA a part of its broader WTO accession.

Russia notes in WT/ACC/33/Rev.1 that 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. In WT/ACC/RUS/34/Rev. 1, Russia notes that this law determines that "foreign suppliers of goods, works or services may submit their bids in the event that the production of such goods, works, or services for state needs in the Russian Federation is non-existent or economically inadvisable."

Over the past few years Russia has provided us with information on several laws, resolutions, and decrees with respect to government procurement and it appears that several more decrees and resolutions have been issued since Federal Law No. 97-FZ was adopted. We have heard of a draft law "On purchases and deliveries of products for state needs" which the Ministry of Economic Development and Trade has submitted to the Government.

What is the status of this draft law? Could you provide us with a copy of the draft?

Answer:

The Ministry of Economic Development and Trade of the Russian Federation has drafted a federal law "On Procurement and Deliveries of Products for State Needs". The draft law implements international government procurement standards (model UNCITRAL law on procurement of goods, works and services).

The draft federal law was submitted for consideration by the Russian Government in April 2001.

4. Policies Affecting Foreign Trade in Agricultural Products

Question 64

GATT Article III requires that internal taxes and other internal charges affecting transportation not be applied in a manner that offers protection to domestic production; imported products be afforded no less favourable treatment than domestic products.

We would like to better understand the way in which imported products are assessed railway transportation tariffs, particularly in relation to domestic products. Could Russia confirm that its railway transportation charges are consistent with GATT Article III, i.e., applied in a manner no less favourable to imports than to domestic goods?

Answer:

As from 1 July 2001 Russia begins to unify the railway transportation tariffs to be applied on domestic and imported goods. These tariffs should be unified from 1 January 2002.

V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME

1. General

(a) Intellectual property policy

Question 65

We appreciate the updated information on the status of intellectual property protection and enforcement contained in WT/ACC/RUS/29, Rev.1. We know the document represents considerable efforts.

Russia's existing laws on copyright, trademarks, patents, selection achievements, industrial designs, and integrated circuit layout designs, with several notable exceptions particularly in the area of copyrights, are generally consistent with the obligations of the TRIPs Agreement.

We have outlined, at previous meetings of the Working Party, the remaining changes we believe are necessary to bring Russia's laws into full compliance with the requirements of the TRIPs Agreement.

In the documentation submitted prior to this meeting, Russia has indicated the areas in which draft legislation has been prepared or in which legislation is under consideration in the DUMA in relation to the TRIPs Agreement. In particular we note references to draft legislation to amend the Law on Trademarks, Service Marks and Appellations of Origin; the Law on Patents, the Law on Layout-Designs of Integrated Circuits, the Law on Commercial Secrets, and the Customs Code. It is indicated that most of the draft amendments will be introduced to the Duma before the end of 2000 or in the first quarter of next year.

- We would appreciate an updated report on the status of this legislation, including information on what has been introduced to the Duma and on what is planned to be introduced, what steps remain for enactment of the legislation, whether the legislation is likely to be amended during the legislative process, the timetable for enactment, and what will be required to implement following enactment.**

Answer:

Draft federal laws “On Making Amendments and Supplements to the Patent Law of the Russian Federation”, “On Making Amendments and Supplements to the Law of the Russian Federation “On Trademarks and Service Marks and Appellations of Origin of Goods”, “On Making Amendments and Supplements to the Law of the Russian Federation “On Protection of Layout Design of Integrated Circuits” and “On Making Amendments and Supplements to the Law of the Russian Federation “On Legal Protection of Software for Computers and Databases” were approved by the Government of the Russian Federation in May 2001. This June these draft laws were presented to the State Duma of the Russian Federation, which is the legislative body of the Russian Federation.

Draft federal law “On Making Amendments and Supplements to the Law of the Russian Federation “On Copyright and Related Rights” (as prepared by a State Duma member) is currently in consideration by the State Duma of the Russian Federation.

In April 2001, draft federal law “On Making Amendments and Supplements to the Code of Arbitration Procedure of the Russian Federation” and draft amendments to Article 180 (Unlawful use of trademark) of the Criminal Code of the Russian Federation passed the first reading. Preparation of the draft new Customs Code containing a special section “border measures” is currently in the completion stage.

For content of the amendments contained in the above draft legislation see WT/ACC/RUS/41.

Question 66

In several instances with regard to national treatment, you have indicated that national treatment obligations of the TRIPs Agreement would be met through the principle of primacy of international agreement.

- **We believe that relying on the application of the principle of primacy of international agreement is insufficient to provide full national treatment because decisions on national treatment in enforcement proceedings would have to be made on a case-by-case basis, requiring the plaintiff to provide evidence of Russia’s membership in the WTO and of the meaning of Article 3 of the TRIPs Agreement.**
- **Such case-by-case decision-making is burdensome for the courts and for the parties in a dispute. We recommend, therefore, that national treatment be provided for expressly in the text of Russia’s intellectual property laws through express reference to the TRIPs Agreement, the Paris Convention, the Berne Convention and other relevant international agreements.**

Answer:

Pursuant to Article 15.4 of the Constitution of the Russian Federation, “The generally recognised principles and norms of international law and international agreements of the Russian Federation are an integral part of its national legal system. If an international agreement of the Russian Federation provides rules incompatible with those legislatively provided, the rules of such international agreement shall prevail”.

When applied to TRIPS agreement this means that once Russia accedes to the WTO, it will be bound by all of its rules and disciplines even if such are different from the provisions of its national legislation. But before this happens, the above provisions of the Russian Constitution will not apply in respect of TRIPS.

As for the recommendation to include references to provisions of specific international agreements in Russian laws, this does not appear efficient for a number of reasons. First of all, nearly all laws pertaining to intellectual property contain provisions to the effect that where an international agreement of the Russian Federation provides rules other than those contained in such laws, the rules of the international agreement shall apply. Secondly, Russian legislation traditionally does not contain references to specific international agreements, because:

- the content of such agreements may change;
- the scope of international agreements in which Russia participates and which pertain to the spheres regulated by this or that law may change;
- the terminology of Russian legislation may be different from that of international agreements;
- requirements included in laws by reference tend to hamper understanding , use, etc.

Question 67

In regard to the draft legislation amending the copyright and neighbouring rights law:

- **We would appreciate a detailed explanation of the operation of Article 5, paragraph 4, in the draft copyright law to restore protection, pursuant to Article 18 of the Berne Convention, to literary and artistic works, and for sound recordings, that are still protected in their country of origin and have not had a full term of protection in Russia.**

We also would appreciate more information regarding enforcement actions that have been taken in an effort to reduce the incidence of copyright piracy and trademark counterfeiting.

- **In addition to a general update, we would particularly appreciate receiving statistics that indicate the number of prosecutions that result from raids by police and the number of convictions and the nature of the penalties imposed in relation to the prosecutions.**

Answer:

Draft federal law “On Making Amendments and Supplements to the Law of the Russian Federation “On Copyright and Related Rights” currently under consideration by the State Duma of the Russian Federation, envisages such amendments and supplements to be made that will support introduction in the territory of the Russian Federation of retroactive protection of copyrighted products, which will bring Russian legislation in conformity with Article 18 of the Berne Convention on Protection of Literary and Artistic Works.

In 1999, within the State Department for Prevention of Economic Crimes of the Ministry of Internal Affairs a task force unit for prevention of crimes against intellectual property rights was formed, and by the year 2000, equivalent structures had been formed in regional divisions of the Ministry of Internal Affairs. This has served to materially increase the effectiveness of law enforcement agencies.

While in 1997 the number of crimes revealed was 720, 950 crimes in 1998, and over 1300 in 1999, in the year 2000 over 2000 criminal actions associated with unlawful circulation of objects of intellectual property, including fraud and smuggling, were revealed. In 2000, 534 underground productions were interrupted (as against 25 in 1999), over 2000 (750 in 1999) criminal prosecutions were made, unlawfully traded counterfeit and falsified products for value of 50 (30 in 1999) million US dollars were seized.

As a result, according to the assessments by Russian and foreign experts there are indicators of steady reduction of the incidence of counterfeit products in Russia: for video-products to 50% (in 1998 – 1999 – 75-80%), audio-products to 64% (1998 – 1999 – 80%), for industrial goods and foodstuffs to 10 – 50%. However counterfeit software still has a very high incidence, according to Microsoft's information amounting to 92%.

Question 68

Concerning enforcement, could you please tell us about Russia's plans for improving the regime for enforcement of intellectual property rights, civil, criminal and at the border, including plans for establishing training centers for judges, prosecutors, police, customs officials and officials of administrative agencies such as the Antimonopoly committee to deal with copyright piracy and trademark counterfeiting and other infringement of intellectual property rights.

Answer:

In order to introduce more stringent criminal liability for unlawful use of copyright and related rights, trademarks and counterfeiting of products, draft amendments have been prepared to Article 180 of the Criminal Code "Unlawful Use of Trademark". When this draft legislation is enacted, not only will it serve to enhance and itemise mechanisms of enforcement of criminal liability for unlawful use of trademarks, but will also lead to more active actions against organised economic crime.

Also in consideration of the State Duma are draft federal laws on making amendments and supplements to Articles 146 and 147 of the Criminal Code (Infringement of copyright and related rights) and the Code of Criminal Procedure of the RSFSR.

For legislative improvements in "border measures" see Answers 34 – 36.

Currently, the activity of customs authorities of the Russian Federation in protection of intellectual property rights is governed by interdepartmental guidelines "On Measures to Secure Safety of Objects of Intellectual Property" (1996) in close co-operation with agencies of the Ministry of Internal Affairs and the Prosecutor's Office. The State Customs Committee of Russia regularly holds regional and all-Russian seminars intended to enhance the expertise of customs agencies employees using its educational and training centres as the venue. Experts of Rospatent, Ministry of Internal Affairs and Ministry of Anti-Monopoly Policy provide assistance with such seminars.

Specialised seminars devoted to the fighting of piracy are also held for employees of law-enforcement agencies. Currently the State Department for Prevention of Economic Crimes of the Ministry of Internal Affairs of Russia jointly with Rospatent are preparing guidelines for trademark protection, and jointly with the Ministry of Publishing and Russian Association of Right Holders – guidelines for protection of printed matter.

Implications of intellectual property are on the curriculum of refresher training courses for judges of various courts and on the agendas of seminars organised with technical assistance of foreign countries.

Question 69

We understand that the draft provisions on intellectual property for inclusion in the Civil Code are being rethought. We remain concerned about the negative effect such provisions could have on the special legislation already in place and on the amendments that you propose to make to that legislation.

Could you please give us an idea of what is occurring in relation to these provisions and what you believe the outcome might be.

Answer:

The State Duma is currently considering the draft intellectual property section of the Civil Code of the Russian Federation (as drafted by members of the State Duma). This draft contains provisions applicable to all objects of intellectual property. It does not contain detailed regulation of issues associated with origination of rights to objects of intellectual property, legal protection of such objects, their use, protection, etc. Such approach to contents of the Code seems justified. The provisions contained in the draft legislation should not adversely affect the development of Russian legislation on intellectual property.

Question 70

Russia is to be congratulated for the achievements already made in creating a legislative framework that is, with some notable exceptions, consistent with the requirements of the TRIPs Agreement and on the preparation of draft legislation that should bring Russia's intellectual property laws into compliance with the requirements of the TRIPs Agreement. We very much appreciate as well the work done in providing documentation to the WTO.

We hope that Russia will make every effort to have the legislation enacted promptly and that, following enactment, will enforce the laws vigorously so that the incidence of copyright and sound recording piracy and trademark counterfeiting is significantly reduced.

We also would be interested in learning the details of Russia's plans for ratifying the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, including the timetable for such ratification.

We urge Russia to ratify the treaties at the earliest possible time.

Answer:

In order to allow Russia to accede to the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, various consultations on the issues involved are underway with ministries, departments and organisations concerned as well as with WIPO.

(c) Membership of international intellectual property conventions and of regional or bilateral agreements

Question 71

In document WT/ACC/RUS/29/Rev.1, Russia indicated that there have been no changes as regards the Membership of International Intellectual Property Conventions and of Regional or Bilateral Agreements. In document WT/ACC/RUS/38 the answer to Question 98 indicates that the internal procedures necessary for the Russian Federation to be bound by the provisions of the Geneva Act will be completed over 1999-2000.

As these two answers seem contradictory, could Russia indicate what is the present correct situation? Have the internal procedures mentioned above been completed? When is it foreseen that the provisions of the Geneva Act will become legally binding for the Russian Federation?

Answer:

There is no case of inconsistency between these answers due to the following reasons. The Russian Delegation took part in the Diplomatic Conference in Geneva in June 1999 which passed a new (Geneva) Act of the Hague Agreement Concerning the International Deposit of Industrial Designs, and was a signatory to the Final Act of the Diplomatic Conference and the Geneva Act. Russia had indeed intended to finalise the national procedure for recognising the provisions of the Geneva Act as binding for Russia between 1999 – 2000. However it is too early to discuss Russia's accession to this international agreement because it has not entered into force *de jure* as three countries with specifically defined status have not signed the agreement. (These are countries in which no less than three thousand applications for industrial designs irrespective of nationality or no less than one thousand applications for industrial designs from foreign applicants are filed with patent agencies annually).

Question 72

Please provide a copy of the Rules of Recognition of trademarks as well-known trademarks as approved by Order No. 38 of Rospatent dated 17 March 2000.

Answer:

The text of the Rules of Recognition of Trademarks as Well-Known Trademarks in the Russian Federation and the text of Order of Rospatent No. 38 of 17 March 2000 approving those Rules have been submitted to the WTO Secretariat.

Question 73

Please explain in detail the application procedure concerning the recognition of a trademark as a well-known trademark.

Answer:

The procedures related to recognising a trademark as a well-known trademark are regulated in general terms by the Rules of Lodging Complaints, Making Applications and Petitions and Their Consideration by the Higher Patent Chamber of the Russian Agency for Patents and Trademarks, whereas detailed regulation is contained in the Rules of Recognition of Trademarks as Well-Known Trademarks in the Russian Federation.

In accordance with the above instruments, the process of determining whether a trademark may be recognised as a well-known trademark in the Russian Federation is initiated by the interested party, i.e. the person who believes that his/her trademark is a well-known trademark. To start the process such person submits an application to the agency authorised to make such decisions, which is the Higher Patent Chamber of Rospatent. The requirement in respect of the application and documents attached with it are provided in the above-listed instruments. All submitted documents together with explanations by the applicant or its representative will be considered by the Higher Patent Chamber of Rospatent. Upon consideration of the application, a decision will be made whether to recognise the trademark as a well-known trademark, or whether to deny such status. A trademark recognised as a well-known trademark will be included in a special list of trademarks well-known in the Russian Federation. Information about trademarks recognised as well-known is promptly published in the official bulletin of the patent agency.

Question 74

Please explain in detail the decision-making procedure for the recognition of a trademark as a well-known trademark.

Answer:

The decision-making procedure in respect of recognition of trademarks as well-known trademarks is regulated by the Rules of Lodging Complaints, Making Applications and Petitions and Their Consideration by the Higher Patent Chamber of the Russian Agency for Patents and Trademarks and the Rules of Recognition of Trademarks as Well-Known Trademarks in the Russian Federation.

A decision summarising the deliberations regarding an application will be made by the Board of the Higher Patent Chamber of Rospatent whose identities are approved ad hoc by the Director General of Rospatent. The Decision will be made by conference of members of the Board following the consideration of application. The decision will be made by a simple majority of votes of the members of the Board. In the case of a tie the chairman of the Board meeting has the casting vote.

Only the operative part of the decision will be read out to the meeting. The complete substantiated decision will be sent to the applicant within two months of announcement of the operative part.

A substantiated decision must be signed by all Board members.

A substantiated decision produced and signed by the Board members must be approved by the Director General of Rospatent. A decision shall take effect from the date of its dispatch to the applicant.

If a decision is not approved by the Director General of Rospatent, the application will be returned for repeated consideration by a newly appointed Board of the Higher Patent Chamber.

2. Substantive standards of protection, including procedures for the acquisition and maintenance of intellectual property rights

(b) Trademarks, including service marks

Question 75

According to our information there are a lot of facts of abuse and illegal use of well-known Georgian trademarks (particularly alcoholic beverages and mineral waters) and import of counterfeited products with Georgian trade marks on the territory of the Russian Federation, that is inconsistent with the WTO Agreement on Trade Related Intellectual Property Rights (TRIPS). Upon accession to the WTO how the Russian Federation will carry out the law-enforcement measures to ensure the protection of the intellectual property rights on its territory?

Answer:

We would like to point out that even under the existing legislation there are opportunities for fighting infringement of trademark rights, including their unlawful use. Pursuant to Article 46.1 of the Law of the Russian Federation "On Trademarks, Service Marks and Appellations of Origins of Goods" such actions entail civil and/or criminal liability under the Russian law. Therefore, if any case

of infringement of trademark rights occurs in the Russian Federation, the owners of such trademarks should go to court or to agencies of the Ministry of Internal Affairs of the Russian Federation.

(e) Patents

Question 76

Please provide a copy of the draft law on Amendments to the Patent Law of the Russian Federation.

Under which conditions does this draft law foresee the use of inventions without the patent holder's authorisation?

Answer:

The situations in which it is possible to use an invention without the patent holder's authorization are implemented mainly in Articles 11 and 12 and Article 13.4 of the Patent law of the Russian Federation. These situations are well-known in patent law (use of foreign means of transportation temporarily located in the Russian territory; use in emergency situations; use for private purposes other than generation of income; exhaustion of patent holder's rights; prior use; use in considerations of national security, etc.).

Certain corrections of the nature of editing of these articles are intended, which have been passed to the WTO Secretariat.

Article 10 of the Patent Law will be amended to better specify the legal framework for decision-making in respect of issuance of mandatory licenses: in the event of non-use or where it is necessary to use an already patented object to implement one's own original invention.

The said amendments entirely correspond to the requirements of TRIPS Article 31.

(h) Requirements on undisclosed information, including trade secrets and test data

Question 77

According to your answer to Question 101 in Document WT/ACC/RUS/38, the second paragraph of the answer suggests that disclosure of information is only possible in case the researcher and the applicant can find an agreement in the protocol of testing. Does this mean that regarding test data a new applicant can never - even not after many years have elapsed - base its request for market approval of a drug already registered if no agreement can be found?

Concerning Question 101 of WT/ACC/RUS/38 again: according to your answer " The use of data submitted in a previous registration procedure is allowed in a subsequent registration procedure performed by the same entity,....".

Please define the term "same entity".

Answer:

There was a misprint in the translation. It should actually read "person", (i.e. legal or physical persons).

Question 78

In the Russian Federation protection of clinical test data against unfair commercial use is granted by the Rules on Conducting Clinical Quality Tests, adopted in 1997 (see Document WT/ACC/RUS/38, answer to Question 101).

Please provide a copy of these Rules.

Answer:

A copy of the said Rules will be submitted to the WTO Secretariat in 2001.

4. Enforcement

Question 79

With regard to the enforceability of judgements (TRIPS Article 41) in answer to Question 103 of WT/ACC/RUS/38, could you please provide us with information on enforcement procedures, statistics and time-limits relating to the enforcement of civil judgements in intellectual property cases?

Answer:

In order to improve court and arbitration practice in the sphere of intellectual property and harmonise the legislation, the Higher Arbitration Court of the Russian Federation has produced a number of procedural and legal novels implemented in the draft new Code of Arbitration Procedure of the Russian Federation. The said draft is being prepared for a second reading by the State Duma.

The Code of Arbitration Procedure (both the existing and the draft version) provides for various remedies for security of claims that may be implemented in any stage of an arbitration process, including emergency measures to prevent infringement of intellectual property rights (seizure of counterfeited products, termination of their production or marketing, etc.). As a rule, such measures will be applied by arbitration courts following an application by the interested party. Applications must be considered not later than the day immediately following the submission, i.e. practically within 24 hours.

VI. TRADE-RELATED SERVICES REGIME

1. General

Question 80

Federal Law 204-FZ of 20 November 1999 lifts the only restriction on the access of foreign suppliers to the Russian insurance market, which limited the foreign interest in the charter capital of a Russian insurer to 49 per cent, thus expanding foreign presence in the Russian market. At the same time, certain regulatory measures are introduced for insurance companies with a foreign interest exceeding 49 per cent (restriction on life insurance, mandatory insurance, etc.).

Please elaborate on the content and effect of these regulatory measures? Until when will they be applicable?

Answer:

Insurance organisations with prevalent foreign participation (over 49%) are not entitled to perform life insurance, mandatory insurance, mandatory state insurance, property insurance associated with deliveries and contract works for state needs, or insurance of proprietary interests of state and municipal organisations. Introduction of these measures is due, *inter alia*, to the priority importance of life insurance (including long-term and pension insurance) and mandatory insurance, are the most important sectors in need of protection. These areas are infant industries, and the potential sources of domestic investments.

At the same time, the ban on certain insurance types does not concern foreign controlled insurance organisations that at the effective date of the 1999 law had already been subsidiaries of foreign investors and had the appropriate license. Considering that licenses stipulate specific insurance types the licensee is authorised to perform, this exception only extends to such types of insurance that are envisaged by a qualifying insurer's license at the corresponding date. No supplementation of the license with other specific types of insurance, including within the already licensed type of insurance activity, is allowed. Besides, where a license had been issued for a certain term, after its elapse such license may not be renewed. The Law does not envisage the timetable for cancellation of these measures.

Question 81

Please describe the criteria used concerning the licensing of the activities in Government Resolution No 387 of 5 April 1999 "On licensing of pharmaceutical activity and wholesale trade in medical preparations".

Which is the competent authority to grant such a licence?

Answer:

The Resolution No. 387 of 5 April 1999 formulates the following criteria for licensing:

- compliance with the Russian Federation legislation;
- compliance with sanitary and epidemiological, hygienic rules and norms, and rules and norms of fire safety;
- qualification requirements in respect of the applicant;
- sufficient equipment of the premises for storage of toxic and virulent substances, security alarm system;
- compliance with rules and norms of handling medicaments and medical products as provided by the Ministry of Health of the Russian Federation;
- compliance with the special requirements in respect of the object of licensing.

Licensing of pharmaceutical activity is performed by executive authorities of the Russian Federation regions having the competence.

Licensing of wholesale trade in medicaments including toxic and virulent substances, and medical products is performed by the Ministry of Health of the Russian Federation or regional executive authorities authorised to licensing activity.

Licenses issued by the Ministry of Health of the Russian Federation are valid throughout the territory of the Russian Federation.

See also WT/ACC/SPEC/RUS/21, reference paper 12, Table 1.

VII. INSTITUTIONAL BASE FOR TRADE AND ECONOMIC RELATIONS WITH THIRD COUNTRIES

1. Bilateral or plurilateral agreements relating to foreign trade in goods and trade in services

Question 82

The provisions of the bilateral Agreement between Georgia and the Russian Federation on Customs Check-Points (8 October 1993) are being infringed by the Russian side, which entails the illegal flow of commercial goods (mainly goods, which in Russia are subject to excise taxes but are not accordingly marked) from Russian territory into Georgia thus threatening to cause serious injury to our domestic market. The commercial freights are entering into the Georgian territory from various non-commercial check-points (Georgian-Russian state border portion in North Osetia - Verkhni Zarmag, Vesioloe - Krasnodarski krai) from Russia, when there is only single customs check-point between Georgia and the Russian Federation (Verkhni Lars) through which the flow of commercial goods are formally authorized by the sides. We would appreciate the Russia's comments on the above-said problem. We seek explanations from the Russian Federation how it will regulate the flow of commercial goods through duly authorized customs check-points.

Answer:

Please, clarify the question in terms of the WTO rules and disciplines involved.

Question 83

In our point of view the Russian Federation and its federal entities are not observing the provisions of the decision of the Council of Heads of State of the CIS dated 19 January 1996, which restricts to carry out any kinds of trade-economic, financial, transport or other types of operations with Abkhazia, Georgia. In violation of the provisions of this decision Russian side unilaterally regulates and changes trade regime in different parts of Russian-Georgian state border. Besides that the separate decrees of the Russian Government were systematically being issued regarding the duty-free import of citrus and other fruits from Abkhazia to Russia. Moreover, agreements of international legal nature have been concluded and in avoidance with Russian Federal authorities direct partnership and cooperation have been established between separate regions of the Russian Federation and Abkhazia, namely between Abkhazia and Krasnodarsky region (governor *Kondratenko*), and Abkhazia and Kursky region (governor *Rutskoy*). In this respect how does the Russian Federation ensure that international commitments undertaken by its Government is properly implemented at the regional or local level?

Answer:

Pursuant to the Federal Law "On coordination of International and Foreign Economic Liaisons of the Russian Federation Regions" dated 4 January 1999, the state authorities of the Russian regions have the right to enter into agreements with administrative territories of foreign states. Article 7 of the above Law however provides that such agreements, irrespective of their form, title or content, do not have international treaty status.

The current effort to strengthen the "vertical" component of state power mechanism and federative structure of Russia is expected to discourage the Russian regions from going directly to Abkhazian authorities as it happened in the past. As an example of concrete measure, the Government

of the Russian Federation denied renewal of the trade and economic agreement between Voronezh region and Abkhazia.

Pursuant to the Government Resolution № 552 of 24 July 2000, all trade and economic cooperation agreements made by regional authorities of the Russian Federation are subject to mandatory registration with the Ministry of Foreign Affairs. The agreements incompatible with international obligations of the Russian Federation are not eligible for registration. Agreements that have not been registered are legally invalid and unenforceable.

These are the major elements of the Russian Federation's regulatory mechanism ensuring that international commitments undertaken by the federal government are properly implemented at sub-federal level.

Question 84

In parallel with unilateral introduction of visa regime by Russia between the Russian Federation and Georgia from 5 December 2000, the Russian Federation maintains simplified (visa free) visa regime with two provinces of Georgia - Abkhazia and South Osetia.

Applying the different visa regimes for different regions of Georgia certainly creates unequal conditions for juridical and natural persons of these regions in supplying the services on the territory of Russia through the modes of supply - "commercial presence" and "movement of natural persons".

We consider that preferential border crossing arrangements maintained by the Russian Federation for above-mentioned regions of Georgia, is a discriminatory approach toward the nationals and juridical persons residing and acting in different regions of the same country thus violating the basic principles of the WTO.

We seek the commitment from the Russian Federation to ensure the uniformity of its visa policy towards entire Georgian territory that would provide the equal conditions for all Georgian citizens and juridical entities in supplying services on the territory of Russia through established modes of supply.

Answer:

The visa regime issues are not regulated by the WTO Agreements. The issues mentioned in question 84 can be resolved within bilateral relations context.

Question 85

Free trade agreements (conforming with WTO Article XXIV) can be useful in encouraging trade liberalization measures and stimulating competitiveness, provided they cover substantially all trade, including agriculture.

For the purposes of Russia's accession, it is important to understand the nature, scope, and ultimate purpose of these agreements, in order to better assess their current and longer term impact on the MFN commitments being negotiated.

Answer:

The main characteristics of the trade regime between the Russian Federation and the CIS countries are contained in documents WT/ACC/RUS/43 and WT/ACC/RUS/43/Rev.1

(November 2000). This includes the descriptions of the trade measures under The Agreement on the CIS Free trade zone, The Customs Union and bilateral free trade agreements with CIS countries.

See also answer 95.

Question 86

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.

Has it entered into force? Do you mean that only textiles imports from the EC get an automatic import licence? Don't you think there can be a problem as regards the MFN rule?

Answer:

The Resolution in question has entered into force. It means that only textiles imports from EU are subject to automatic licensing requirements. Any other textiles importation needs no licensing at all.

Question 87

CIS FTA and Customs Unions: Preferences are provided “based on a certificate of origin confirming the exporter to be a resident of a CIS country.”

- a. **We seek clarification on how this rule of origin works in practice. Who grants the certificate of origin and what criteria are used? Can a foreign-owned firm or a foreigner with a valid commercial registration be considered a “resident” for the purposes of receiving the benefit of the tariff preferences for its exports?.**
- b. **Is Russia developing the structure to implement the procedural and substantive provisions of the Agreement on Rules of Origin?**
- c. **Do these Agreements provide for indicative lists of traded goods? Such arrangements exist, but are they part of the FTA, or are such arrangements made independently?**
- d. **Concerning indirect taxation, we need to know more about the legal basis for Russia's conversion to the destination principle in application of its VAT on 1 July 2001. Is this a firm date?**
- e. **What differences exist, in practice and operation, between the FTA relationship that Russia has with some CIS and the “customs union” with Kazakhstan, Kyrgyz Republic, Belarus, and Tajikistan?**

Answer:

- a. & b. Under the Rules of Determining the Country of Origin of Goods approved by Decision of the Council of Heads of Governments of the CIS dated 30 November 2000, certificates of origin of goods are issued by agencies so authorized in keeping with the national legislation of the exporting state (in Russia the regulation is contained in the Law of the Russian Federation "On Customs Tariff, Chapter V) based on the following criteria:
 - goods entirely produced in a given country;
 - criterion of sufficient processing/conversion of goods.

In accordance with the above Rules, a resident is any natural person or legal entity that is a taxpayer under the laws of a state by virtue of residence, permanent presence, place of operations, or registration, and is involved in production or marketing of goods.

In Russia certificates of origin of goods are given by Commerce and Industry Chamber of the Russian Federation.

- c. Such Agreement is the part of FTA and does not provide for indicative list of traded goods.
- d. See the answer to Question 6.
- e. The only difference between FTA relationship that Russia has with some CIS countries and the Customs Union countries is that goods subject to export duties when exported from Russia to Kazakstan, Kyrgyz Republic, Belarus and Tajikistan are not levied by such duties.

Question 88

Article 28 of the Customs Union Agreement states that “the Parties shall use a single system of collection of indirect taxes in mutual trade based on the country of destination principle, which shall be reflected in a separate agreement. Has any action been taken to implement this provision?”

Answer:

The process of harmonization of indirect taxes collection in mutual trade between the Parties to the Customs Union Agreement based on the country of destination principle has intensified in 2000-2001. The corresponding actions are taken on bilateral basis. Thus, for example, Russia enforced the country of destination principle in mutual trade with Kyrgyz Republic from 1 January 2001. See also answers to Questions 1 and 6.

Question 89

Article 38 of the Customs Union Agreement states that “The Parties shall maintain an agreed policy in respect of trade in services with third parties,” and that “ Parties shall provide each other with a preferential treatment by making exemptions from the most favoured nation treatment in favour of the Parties comprising the customs union.

Does there currently exist preferential treatment for services within the customs union? How does Russia expect this to operate in the context of WTO Accession commitments?

Answer:

The Customs Union and Single Economic Space Agreement dated 26 February 1999, provides for step by step economic integration of the Customs Union members including trade in services: from the Customs Union to Single economic space. The Customs Union is being transformed now into the Eurasian Economic Community (EurAsEC). At present the work is under way to prepare a concept of creation within EurAsEC of common market in services with a view to defining a step by step process.

At present the trade regime of EurAsEC members in services sphere is stipulated in a number of multilateral and bilateral agreements , treaties and Intergovernmental Protocols, for the majority providing for granting the national treatment to each others operators. The most advanced degree of

integration is achieved in transport, financial, tourist services sectors, cultural sector, establishment of preferential rules for movements of natural persons, mutual recognition of education certificates, etc.

Considering that the economic integration process of EurAsEC members is far from being completed and does not as of now comply with Article V GATS, the preferential treatment in respect of EurAsEC members is implemented in Russia's commitments in services as MFN exemptions based on existing and future agreements with these countries in all services sectors.

Question 90

Union State Treaty with Belarus - we would appreciate an update on steps being taken to create a union state with Belarus. Article 8:2 states: "the Union state shall maintain any appropriate legislative or other measures to accord equal rights obligations and guarantees to all business entities of any organizational and legal firms, and citizens with entrepreneur status, in accordance with the laws of the Member States".

- **Does this mean that Russia and Belarus treat each others enterprises and entrepreneurs as nationals for the purposes of investment and the provision of services?**
- **Of the objectives listed in Article 17, what steps are being taken to implement any of them?**
- **65 Articles are listed, but only 13 are included in the text provided to the Working Party. What provisions were left out?**

Answer:

Russia and Belarus treat each other enterprises and entrepreneurs for the purposes of investment and provision of services as operators of another state.

For realization of Article 17 of the Union State Treaty the Agreement "On introduction of a Single Monetary Unit and Establishment of Single Emission Center" was signed on 30 November 2000. The agreements also were signed providing for step by step creation of the uniform tax system and conduct of the uniform tax policy. The English language version of the text submitted to the WTO contains 13 articles dealing with economic and trade relations between the two countries. The rest of the articles deal with interaction in political sphere and organizational and institutional issues of creation of the Union State.

Question 91

- **We seek to better understand the scope and nature of the preferences covered Russia's FTA with Yugoslavia.**
- **Please describe the proposed scope of Russia's FTA with Yugoslavia? Is there an implementation timetable?**
- **How far along is implementation at the present time? What happens at the end of five years if full mutual tariff elimination hasn't been achieved?**
- **Approximately what portion of bilateral trade is accounted for by the exceptions listed in the protocol attached to the agreement? Are all other goods traded on a duty free basis?**
- **Articles 15 and 16 appear to provide for the use of selective safeguards. Under what circumstances would the safeguards be invoked. Will it be necessary to enact additional legislation or regulations to implement such safeguards?**
- **What, if any, provisions are made in this Agreement for liberalization of trade in services, either on an MFN or preferential basis.**

Answer:

The scope of the Agreement on Free Trade, according to article 3, is trade in goods.

Currently certain provisions of the Agreement are provisionally applied starting its effective date.

Once all the interdepartmental consents are obtained, the agreement will be presented to the Government of the Russian Federation for further presentation to the State Duma of the Russian Federation for ratification.

The Agreement is open-end. It shall terminate six months after a written notice by one of the parties of its intention to terminate.

According to the Russian statistics, the volume of goods circulation between the Russian Federation and the Union Republic of Yugoslavia in 2000 amounted to 360,791 million US dollars, including exports to Yugoslavia 293,991 million US dollars, imports from Yugoslavia 66,8 million US dollars.

According to a preliminary estimate, approximately 80% of bilateral goods circulation fall under the free trade regime.

Safeguards measures may be invoked on the basis of the national legislature in force of both sides without additional regulations.

Question 92

We understand that Russia and China recently signed a trade agreement. Please describe the proposed scope and nature of this agreement. Does it contemplate tariff or other preferences? Are there provisions covering trade in services?

Answer:

The Russian Federation and the People's Republic of China signed on 3 November 2000 a Trade agreement for 2001-2005 based on Intergovernmental agreement on trade and economic relations of 5 March 1992. This agreement is of framework character. The provisions of the agreement are covering trade both in goods and services. The agreement does not envisage tariff or tax or other preferences for mutual trade of general nature or for border trade.

Russia does not maintain any border tax reduction program for border trade with China or with any other country. There are no special provisions for performing border trade in Russian legislation.

Question 93

We understand that China maintains a "border trade tax reduction program" under which Chinese customs only assesses half of the normal customs duties and VAT on "low volume goods" shipped across land borders from Russia in designated towns. The original arrangement was authorized for two years from 1996 to 1998, then extended and is presently due to expire at the end of December 2000. Reportedly, the original intent in establishing the border trade tax reduction program was to stimulate the economies of remote towns by promoting cross border trade of local commodities such as Perishable farm produce, local textiles and light industrial products. However, Chinese Customs has evidently interpreted this

program quite broadly, thus allowing virtually any product made anywhere in the country across the border to qualify for this special tax break. This would appear to violate Article I of the GATT, as such selective preferences are not considered to be an FTA or customs union sanctioned by Article XXIV, nor would it appear to meet the description of “frontier trade.” We do not know if Russia maintains a reciprocal program.

- **Does Russia grant tariff and tax preferences to Chinese trade under a “border tax reduction program”? If so, is it due to expire soon?**
- **What limitations exist on the scope and content of this trade, e.g., does Russia observe the limits outlined in Article XXIV of the GATT concerning duty free treatment of “frontier trade”?**
- **Does Russia intend to extend this agreement?**

Answer:

See the answer to Question 92.

Question 94

Russia-EU Partnership and Cooperation Agreement - what are the provisions for better than MFN treatment in individual services sectors? Are any operational? What is the status of discussions for an FTA in goods?

Answer:

The Partnership and Cooperation Agreement (PCA) is a non-preferential agreement. However, no other trade agreement of Russia with third countries except those of CIS establishes treatment in individual sectors in volume provided for by PCA.

Russia has not entered in negotiations on FTA with the EU.

Question 95

In respect of each preferential regional trade agreement (whether taking the form of a Free Trade Agreement or a Customs Union) between Russia and one or more of the CIS countries, please indicate what goods remain subject to tariffs and/or non-tariff measures (e.g. licensing, quotas) in bilateral trade (both imports and exports). Please indicate what products (if any) are currently specifically excluded from the coverage of these agreements. What percentage of bilateral trade is represented by trade in products still subject to the application of tariffs and/or non-tariff measures?

Answer:

The only product originating from CIS countries (other than Customs Union members) and subject to import duties in Russia now is raw sugar.

All products subject to export duties and exported from Russia to CIS countries (other than Customs Union countries) are subject to such duties.

All products originating from the Customs Union countries and imported to Russia are released from customs duties. The same applies to all goods subject to export duties and exported from Russia to the Customs Union countries .

All goods subject to import or export licensing in Russia are subject to the same licensing requirements in bilateral trade between Russia and CIS (including Customs Union countries). The share of trade in products subject to the applied tariff and non-tariff measures is about twenty six per cent.
