

# WORLD TRADE ORGANIZATION

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**Working Party on the  
Accession of the Russian Federation**

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## ACCESSION OF THE RUSSIAN FEDERATION

Communication from H.E. Mr. William Rossier,  
Chairperson of the Working Party

You will recall that in closing the Working Party meeting on 25 May 2000 I announced my decision to relinquish my function as your Chairperson and move on to other responsibilities. After five years of intensive work I believe it is my duty to share with you my assessment of where matters stand in this Working Party and offer my recommendations on substantially moving this important accession forward.

To this end, on my own responsibility, I have prepared the attached overview. It aims to provide Members with a comprehensive, if not exhaustive, factual overview of the Working Party proceedings since the first meeting in July 1995 up to the most recent meeting in May 2000. To facilitate consideration, I have structured the note along the line of the Russian Memorandum on Foreign Trade Regime, on which any future report of the Working Party would have to be based. It constitutes a sort of annotated checklist of issues on which, I believe, future work should focus. Indeed, my objective is to facilitate further work on developing a solid framework for accurately describing the Russian Federation's foreign trade instruments and measures for which enforceable commitments can be agreed.

These commitments are essentially linked to legislative acts or implementing regulations. The vast changes in the legislative agenda have been welcomed by all members of the Working Party. However, these, and the progress foreseen in the future, will need to be further clarified and translated into detailed action plans describing the individual legislative and executive actions underway, as well as proposed, in order to ensure that the Russian Federation will be able to implement and enforce WTO Agreements upon accession. As I see it, these commitments are related to the general trade regime as well as to its specific elements. In the general category, I can think of, for example:

- federal authority to enforce the WTO Agreements in the territory of the Russian Federation;
- transparency requirements under the WTO;
- WTO judicial review requirements;
- right of individuals and firms to engage in trade.

In the category of specific elements of the Russian foreign trade regime, many areas remain to be considered, clarified, and multilaterally agreed. In fact, these must also be addressed urgently to ensure smooth progress of the bilateral market access negotiations in goods and services. I have pointed out quite a number of these areas in the attached overview.

I consider this overview timely also because, for the several important reasons mentioned in my concluding remarks on 25 May 2000, our last meeting marked a water-shed in this accession. If the WTO related reform process in the Russian Federation proceeds as programmed in the coming

months, the next meeting of the Working Party could begin a new accelerated phase. I sincerely hope this will be the case.

My overview does not only set out areas and subject-matters on which further work is clearly required. I hope it also helps to identify the interlinkages that exist between and among different aspects of the accession process. I have already emphasized the need for an enforceable legal framework in the Russian Federation also as an essential condition for achieving meaningful progress in the market access negotiations. This is not, of course, specific to this accession but, rather, central to all accession processes. But again, as I stated earlier, in the Russian Federation's case, due to the complexity of the legislation already in place as well as the intensive legislative programmes foreseen, it is crucial that members of the Working Party gain a total and complete picture of the means by which the Russian authorities intend to implement WTO commitments.

At our last meeting we began such a process. My first recommendation is that the review of legislative developments should continue in an increasingly focused manner including, wherever possible, the provision of draft legislative texts to members of the Working Party together with precise indications, in each case, of the time-frames foreseen for the enactment of laws and regulations.

I would also like to emphasize the need to continue intensive technical work on a number of subjects which are particularly important for creating a solid framework within which bilateral market access commitments, as well as Russia's multilateral terms of entry, can be meaningfully negotiated. My second recommendation is, therefore, to continue this work with a view to establishing a multilaterally shared understanding on which work can proceed constructively. I have in mind technical work in a number of areas such as subsidies, agriculture, customs valuation, technical standards, intellectual property rights, etc.

This brings me to my third recommendation. Starting this year itself, there is need to intensify bilateral market access negotiations in goods and services. The submission of the Russian Federation's Services offer has now placed before the Working Party all the elements needed for these negotiations to advance.

These reflections have resulted from the preparation of the attached overview. Overall, it remains my perception that this accession process is now running in parallel with Russia's economic reform process, each supporting and helping the other. This was confirmed by my recent visit to Moscow in June this year. During this visit, I had the opportunity to hold substantive discussions with Government authorities, members of the Duma and representatives of the Russian business community. I received confirmation from all quarters that accession to the World Trade Organization remains a top priority for the Russian Federation. I also got an indication of the readiness of the Russian Government to intensify the negotiating process in the months ahead.

Finally, I wish to stress once again that the attached note reflects my own views and does not prejudice the positions of members or the Russian Federation on these or other matters.

I thank you again for your support and cooperation and wish you all success.

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## ATTACHMENT 1

### Chairperson's Overview of the State of Play in the Working Party on the Accession of the Russian Federation to the World Trade Organisation

#### **Introduction**

1. As members of the Working Party would recall, the Government of the Russian Federation requested accession to the General Agreement on Tariffs and Trade (GATT 1947) in June 1993. At its meeting on 8 July 1993, the GATT Council of Representatives established a Working Party to examine the application of the Government of the Russian Federation to accede to the General Agreement under Article XXXIII. In pursuance of the Ministerial Decision of 14 April 1994 on Acceptance and Accession to the Marrakesh Agreement Establishing the World Trade Organization (WTO) and the decision of 31 May 1994 of the Preparatory Committee for the WTO, the Working Party examined the application of the Government of the Russian Federation for membership in the WTO. Following the entry into force of the WTO Agreement on 1 January 1995, and in pursuance of the decision adopted by the WTO General Council on 31 January 1995, the GATT 1947 Working Party was transformed into a WTO Accession Working Party under Article XII of the Marrakesh Agreement Establishing the WTO. My Chairpersonship, originally noted in 1993 by the GATT Council of Representatives, was confirmed by the WTO General Council at the same meeting. The terms of reference and the current membership of the Working Party are reproduced in document WT/ACC/RUS/1/Rev.7.

2. Under my Chairpersonship, the Working Party held ten meetings from July 1995 to May 2000. The following overview sets out my assessment of work done so far in the Working Party. As your outgoing Chairperson, it is being sent to you on my own responsibility in the expectation that it will prove a useful instrument in planning the work ahead.

#### **Documentation**

3. The most recent list of documentation provided to the Working Party can be found in WT/ACC/RUS/11/Rev.10.

#### **General Statements**

4. In recalling the history of the Russian Federation's application to accede to the WTO, it was noted that the Russian Federation had been an observer to the GATT 1947 since January 1992 and, in this capacity, had witnessed the successful conclusion of the Uruguay Round and followed its implementation. In more recent years, the Russian Federation had begun a process of economic reform which encompassed a substantial liberalisation of its foreign trade régime and the adoption of laws and regulations based on WTO requirements. Moreover, as a result of the Government's concerted efforts to encourage entrepreneurial activity, facilitate foreign investment, and expedite the privatization of State assets, the economy of the Russian Federation had been heading towards an increasing degree of stabilization. The Government has been making substantial efforts to control inflation and the budget deficit. Having pursued trade policies based on GATT principles, full membership in the World Trade Organization was an important missing element in the Russian Federation's trade policy and remained, therefore, a priority objective of the Russian Government.

5. The Working Party welcomed the Russian Federation's application for accession to the WTO and stressed the importance of a rapid completion of the process of accession on terms which are mutually beneficial to the Russian Federation and to WTO Members. Regarding the multilateral aspects of the terms of the Russia Federation's accession, a central point of interest revolved around

the examination of WTO related legislation and the ongoing process of legislative reform aimed at introducing the new legal, administrative and enforcement infrastructure required under WTO agreements.

## **ECONOMIC POLICIES**

### **Monetary and Fiscal Policy**

6. During discussions on Russian monetary and fiscal policy, the importance of consistent and balanced tax policies was constantly emphasized in order to increase the level of predictability of the fiscal régime and of foreign investment in the Russian Federation. Information was requested on the evolution of the tax régime, including tax incentives aimed to encourage foreign investment. Members also expressed interest in receiving information on the new economic programme prepared by the Russian Government.

7. The Russian authorities noted that monetary and fiscal policies were being reformed in consideration of WTO requirements. Under this item (cf. also "Application of internal taxes to imports" in paragraph 22 below) it was further noted that, in view of the accession process, the Russian Federation had taken steps to introduce reformed excise and VAT systems which would conform to WTO requirements. It was acknowledged, however, that there was still a need to unify the different VAT régimes which the Russian Federation currently administered with regard to CIS countries where VAT was applied upon export, and to all other trading partners for whose products VAT was applied upon sale in Russia. Legislation planned in this field, including drafts where possible, would require further examination by the Working Party.

### **Foreign Exchange and Payments**

8. In response to questions raised during discussions on the Russian Federation's foreign exchange régime the Russian authorities confirmed that the Russian Federation, as a member of the International Monetary Fund since 1992, followed internationally accepted monetary rules. Following the currency crisis in August 1998, certain measures were introduced to ensure that the devaluation of the rouble did not produce excessive inflation. The Working Party considered that more information was needed on the current situation and practices in this area. Information was also sought on past and present currency controls and on any developments foreseen in this respect.

### **Investment Régime**

9. In reviewing the Russian Federation's investment regime, it was noted that the basic legal provisions relating to foreign investors were contained in the Constitution of the Russian Federation, the Civil Code and Federal Law No. 160 of 9 July 1999 "On Foreign Investment". Questions were also raised concerning draft legislation under preparation in 2000 that would restrict or ban foreign investment in certain sectors of the economy. The Law "On Foreign Investment" provided national treatment for foreign investors, potential incentives and a wide range of guaranties for foreign investors. Restrictions on foreign investment could be required for reasons relating to the protection of constitutional order, public morality, public health, rights and legitimate interests of other persons, state defence and national security. There could also be restrictions of a general economic character. For instance, under the Law "On Production Sharing Agreement", a decision on access of foreign investors to natural resource sites must be taken simultaneously with the decision on the corresponding tender. Moreover, the foreign investor who had won the tender might still be dismissed if the Federal Security Service so recommended. Members of the Working Party stressed the importance of establishing a transparent and predictable framework for investment and noted the potential negative effect of sectoral restrictions on foreign investment on market access for goods and services.

10. Also, under the existing system in the Russian Federation, investment incentives could be introduced if deemed to be in the interest of social and economic development of the Russian Federation. For instance, the Federal Laws "On Value Added Tax", "On Customs Tariff" and "On Profit Tax of the Companies and Organisations" provided foreign investors with various incentives to invest. Discussions took place and many questions remained pending on the details of those provisions. Some members requested further clarification of the investment regime, notably on the Russian Federation's programme for promoting investment and its treatment of foreign investors, with a view to agreeing enforceable multilateral commitments in this area.

### **State Ownership and Privatization**

11. Discussions also took place on progress in the Russian Federation's privatization programme and plans to retain State ownership in certain enterprises or sectors. The Russian authorities recalled that the Basic Provisions of the State Privatization Programme" stipulated that: "Foreign investors may participate in the privatization of trading, public catering, and consumer service facilities, as well as small companies in industry, the construction sector, and on auto transport, only by a decision of local authorities or agencies duly authorised thereby". Decisions on inclusion of other sectors were taken by the Government of the Russian Federation or, from time to time, by the governments of republics within the Russian Federation. Several questions by Working Party members focussed on bankruptcy or enterprise dissolution provisions in Russian legislation. A detailed report was requested on Russian firms remaining under Government control, the nature of goods they consumed, exported or distributed and on plans to complete the privatization process. Discussions also took place, and many questions were raised, regarding the privatization programme in agriculture. In this regard, the Russian authorities noted that state farms' had been privatized by being transferred to the former employees free of charge, based on Article 12 of the Constitution of the Russian Federation.

12. It was confirmed that the Russian Government was prepared to provide further information on the privatisation programmes. It was highlighted that, to ensure full transparency, the Russian Federation should keep WTO Members regularly informed about progress in privatization and provide periodic reports on developments in economic reform issues as related to WTO obligations. This information should describe how privatizations are taking place and the relative importance of state-owned industry in national employment and trade. I note in this regard the position of the Russian Federation that privatization should not be considered relevant to agreeing the terms of Russia's accession to the WTO and the emphasis placed by some members on agreeing appropriate multilateral commitments.

### **Pricing Policies**

13. The Working Party also examined the Russian Federation's progress on price liberalization and the extent of any remaining controls on prices for goods and services. The Russian authorities noted that pricing policy in the Russian Federation was aimed at expanding free market pricing. The only major exception to this policy was pricing by natural monopolies. In this connection the Government of the Russian Federation regulated prices for goods and services supplied by natural monopolies including natural gas, electric and thermal energy, pumping, transshipment and storage of oil, railway transportation, and products purchased exclusively or mainly by the State (defence products, precious metals and alloys). Federal government agencies also approved and controlled fixed prices for all kinds of precious metals. Fixed prices were also established for certain postal and electronic communications services, as well as for rail and other transport, except where competing groups of carriers were involved (such as air, road and river transport services). Regional government agencies regulated prices for products and services charged by local natural monopolies. It was further noted that any goods and services subject to State price controls or changes regarding existing price controls would be listed in the Russian Federation's official journals.

14. Following this discussion, it was generally felt that further information was required on progress of price liberalisation in the Russian Federation, particularly on provisions concerning border charges and conditions under which the authority to control prices was actually exercised at different administrative levels. Information was particularly sought on the functioning of current price controls (e.g. whether the prices were legally mandated, or profit controls or limits existed on price increases, and at what point of sale for domestic and imported goods) with the objective of agreeing enforceable multilateral commitments in this area.

### **Competition Policy**

15. The Working Party undertook a detailed examination of the Russian Federation's competition policy, including the provisions of the legislation on competition policy and the extent of the authority of the Ministry of the Russian Federation for Antimonopoly Policy and Support of Entrepreneurship to regulate competition in the economy in the Russian Federation. The Russian authorities described the pro-competition policy framework developed by the Government as well as the key laws governing competition policy: including the Federal Law "On Competition and Restriction of Monopoly Activity on Commodity Markets" of 22 March 1991 (as amended on 24 June 1992 and 25 May 1995) and the Federal Law "On Consumer` Right Protection" of 7 February 1992 (as amended on 2 June 1993). The Russian legislation introduced controls on cartels, abuse of dominant position, economic concentration, mergers and acquisitions. The legislation also dealt with unfair competition and unfair advertising. The responsible ministry was the Ministry of the Russian Federation for Antimonopoly Policy and Support of Entrepreneurship. The Working Party considered that further information and detailed discussions were required on this subject.

### **FRAMEWORK FOR MAKING AND ENFORCING POLICIES**

16. Detailed discussions took place on the legal and executive structure of the Russian Federation, focussing on the hierarchy of legislative instruments, the separation of powers and the competencies of the Federal and sub-Federal Governments. The possible implication for foreign trade policy of the recent Presidential decision introducing seven administrative regions covering the entire territory of the Russian Federation was also discussed. The Russian authorities confirmed that foreign trade activity in the Russian Federation was regulated by the Constitution of the Russian Federation, federal laws and other legal acts of the Russian Federation, and also by generally recognised principles and rules of international law and by international treaties to which the Russian Federation is a party. The Federal Law No. 157-FZ of 13 October 1995, "On State regulation of Foreign Trade Activity" charged *inter alia* the federal authorities with the responsibility to form the concept and strategy for the development of foreign trade relations and the basic principles of foreign trade policy, to ensure economic security and protection of the economic sovereignty and economic interests of the Russian Federation, as well as the economic interests of the subjects of the Russian Federation to conclude international treaties in the foreign economic sphere. Article 72 of the Constitution provided for coordination between federal and regional authorities in the area of international and foreign economic relations, and permitted the subjects of the Russian Federation to secure their own interests in this field. Federal Law No 4-FZ of 2 December 1998, "On co-ordination of international and foreign economic ties of the subjects of the Russian Federation", provided the regions *inter alia* with the right to negotiate and conclude agreements with their partners on international and foreign economic ties. Such agreements cannot, however, contradict federal legislation or international commitments assumed by the Russian Federation. The law obliges the sub-federal entities to notify their intentions, if any, to enter into negotiations with foreign entities to the appropriate federal authorities. It also sets forth a procedure of prior approval by the Federal Government of agreements entered into by sub-federal authorities. Agreements concluded by subjects of the Russian Federation are not to be considered international treaties valid for the Russian Federation. It was noted that the multilateral commitment generally required in this regard was to ensure that WTO inconsistent measures would be overruled in every case.

## **POLICIES AFFECTING TRADE IN GOODS**

### **Trading Rights**

17. Under this subject, discussions centered on the freedom of Russian and foreign nationals to engage in foreign and domestic economic activity. The Russian authorities noted that the previous state foreign trade monopoly had been eliminated by the Decree of the President of the Russian Federation No. 213 of 15 November 1991, "On Liberalization of Foreign Economic Activity on the Territory of the Russian Federation", under which all enterprises were given the right to carry out foreign economic activities, whatever their form of ownership. The Decree permitted all enterprises registered within the Russian Federation to undertake foreign economic activity, regardless of the form of property and without any special permission. Trading rights on the territory of the Russian Federation had been further liberalised by the enactment on 13 October 1995 of the Federal Law "On the State Regulation of Foreign Trade". Detailed questions were asked on the effects of the implementation of that law. It was also felt that a discussion of the relationship between the right to trade and the Russian Federation's licensing requirements on imports was warranted under this topic. Reference should also be made to previous requirements that import and export contracts be registered. Current requirements for commercial registration should also be addressed. It was also noted that a commitment was required in this area.

### **Market Access Negotiations**

18. As the discussions in the Working Party advanced, in March 1998 the Russian Federation made available its initial market access offer in Goods to members of the Working Party. Concern was expressed concerning both the method used in tabling this initial offer and the level of proposed bindings therein. The absence of corresponding applied rates was mentioned as well as the length of the proposed phasing periods. Following initial bilateral contacts, the Russian Federation has made available the list of current applied rates and also tabled a revised market access offer in goods in February 2000. Bilateral contacts continue on that basis.

#### **1. Import Regulations**

##### **Customs Tariffs**

19. During discussions on this item, the Russian authorities provided information on the steps taken towards bringing Russia's tariff into conformity with the Harmonized System administered by the World Customs Organization (WCO). Details of Russia's current customs import tariff were contained in Resolution No. 1560 of the Russian Government dated 27 December 1996. Discussions focussed on increases of tariff rates applied on certain items, including seasonal agricultural tariffs such as those on sugar, introduced by the Russian authorities in recent months. Members were also interested in receiving information on the draft Customs Code under discussion in the Duma in 2000.

##### **Other Duties and Charges**

20. Work on this item resulted in the confirmation by the Russian authorities that all duties and charges other than the ordinary customs duties, referred to in Article II (b) of the GATT 1994, would be bound in the Russian Federation's goods schedule. The exact level still remained to be determined. It was felt that a more comprehensive factual description of the Russian Federation's currently applied duties and charges other than ordinary customs duties was required to agree a multilateral commitment in this area.

### **Fees and Charges for Services Rendered**

21. In response to requests the Russian authorities agreed to submit detailed information on fees and charges for services rendered to importers to enable the Working Party to undertake a detailed discussion on this subject.

### **Application of internal taxes to imports**

22. See paragraph 7 above.

#### **Excise Taxes**

23. Discussion on this item centered on the differential application of excise taxes to imports as between non-CIS and CIS countries. Information was also requested and questions posed on the application of excise taxes on specific domestic and imported products, including alcoholic beverages, and the consistency of existing practice with national treatment obligations under the WTO. Subsequently, the representative of the Russian Federation informed the Working Party that the concerns raised in relation to the differential application of indirect taxes to imports would be remedied in the year 2000 through the new Tax Code. Discussions also revealed that the Federal Law On Excises, which entered into force on 10 January 1997, unified excise tax rates for imported and domestic products, though jewellery, gasoline, and motor vehicles remained subject to *ad valorem* rates. However, the formula applied for calculating excise taxes was such that the amount levied on imports and on comparable domestic products was the same. Proposed legislation in this field would need to be further examined by the Working Party.

#### **Value-Added Tax**

24. Discussions also took place on the application of value-added tax, including product and user-specific exemptions, equal treatment for imported and domestic products, and the calculation of VAT on motor vehicles. The Russian authorities confirmed that VAT would be applied uniformly to all imports, including CIS countries, from the year 2000. Proposed legislation in this field would also need to be further examined by the Working Party.

### **Quantitative Import Restrictions, including Prohibitions, Quotas and Licensing Systems**

25. During discussions on the Russian Federation's system of import licensing, the Russian authorities informed the Working Party that Government Resolution No. 1299 of 31 October 1996 had established a new framework for application of import licensing. Russian authorities considered the new system fully consistent with the relevant provisions of the GATT 1994 and the Agreement on Import Licensing Procedures. The Working Party expressed concern that in certain circumstances the conditions of sale of imported products continued to be inconsistent with the WTO's national treatment requirements. Recent import prohibitions on alcoholic beverages, such as those provided for in Federal Law No.61-FZ "On Temporary Ban on Ethyl Alcohol Imports" of 31 March 1999 (valid until 1 January 2002), and similar restrictions on other imports were also discussed and questions were raised on the legal justification and duration of such measures. The Russian authorities continued to stress the temporary nature of the measures. It was considered that further clarification was needed, notably on those licensing restrictions and requirements not considered justified under WTO provisions with a view to agreeing multilateral commitments in this area.



### **Customs Valuation**

26. Discussion on the Russian Federation's customs valuation régime ranged over several meetings and centered on current and future legislative provisions and their consistency with WTO rules, particularly the Agreement on the Implementation of Article VII of the GATT 1994. The Russian authorities explained that current customs valuation practices in Russia were governed by Federal Law No. 5003-1 of 21 May 1993, "On Customs Tariff", and, adopted in accordance with Article 12 of this law, the Resolution of the Government of the Russian Federation No. 856 of 5 November 1992, "On the Procedure of customs valuation of products imported into the territory of the Russian Federation". The Law On Customs Tariff stipulated rules for determining customs value which were consistent with the provisions of the Agreement on Implementation of Article VII of the GATT 1994, including those provisions governing the use of the methods for determining the transaction price of imported products. It was noted that legislative action was foreseen by the Russian authorities in this area and that continuing informal technical work was important in order to arrive at appropriated multilaterally agreed commitments concerning the conformity of the Russian system with WTO requirements. It was also stressed that progress in this field was essential to ensure any meaningful negotiations on market access.

### **Other Customs Formalities**

27. Work centered on the question of the Russian Federation's customs formalities and their consistency with WTO provision. In this connection, the Russian representatives stated that customs formalities in the Russian Federation were in accordance with internationally accepted rules and were based on the Kyoto Convention. The Russian Federation had been a member of the World Customs Organisation since 1990. The Working Party was informed that fees for customs clearance were currently charged at a fixed rate of 0.15 per cent of the customs value. A fee ranging from 0.002-0.004 ECU per kilo, plus 3 ECU per vehicle, was payable if storage warehouses were used. Revenue accruing from these fees was spent entirely on enhancing the functioning of the customs services provided. Modalities were being contemplated for putting in place a fee collection system in line with WTO requirements. The Russian authorities stated that a certain period of transition would be required to put the new regime in place. The Working Party felt that detailed action plans were necessary for members to examine any request for transition periods. In addition, it was noted that customs user fees must, in every case, reflect the cost of services rendered in keeping with WTO rules.

### **Preshipment Inspection**

28. During discussion on this item, the representative of the Russian Federation stated that his Government did not currently engage private companies to carry out preshipment inspection. The Working Party felt that the responsibility of the Russian Government for compliance with WTO provisions by any entity engaged in preshipment inspection should be clearly determined. The objective is that of agreeing enforceable multilateral commitments in this area.

### **Rules of Origin**

29. Discussion focussed on the provisions of the Federal Law "On Customs Tariff", which set out rules of origin for goods imported into the Russian Federation. The Russian authorities stated that the rules were designed to help identify the country of origin in accordance with criteria set forth in the said Law. The Working Party examined in detail the different criteria governing the determination of origin, the formalities connected with the issue of the required certificate, and the circumstances in which the customs authorities could refuse to process a customs entry when origin was in dispute. Further technical work was deemed necessary to gain a more precise understanding of any possible

WTO inconsistencies resulting from the system in place. The objective is to ensure that the WTO Rules of Origin provisions were in place upon accession.

### **Anti-Dumping, Countervailing Duties, and Safeguard Régimes**

30. The Working Party was informed that a Federal Law No. 63FZ, "On Measures to protect the Economic interests of the Russian Federation in Foreign Trade in Goods", had been enacted on 14 April 1998. The Law established the procedures for the application and the imposition of safeguards, anti-dumping and countervailing measures as well as all other regulations concerning exports and imports provided for in the relevant rules of GATT 1994, including measures taken for balance of payments purposes. Discussions centered on the conformity of the law with the requirements of the WTO Agreement on Implementation of Article VI of the GATT 1994, the Agreement on Subsidies and Countervailing Measures, the Agreement on Safeguards as well as on the provisions of Article I, XII and XX of GATT 1994. The Russian authorities informed the Working Party that the Law was expected to be amended in compliance with WTO rules and disciplines in the year 2000. It was noted that continuing informal technical work, including the examination of any future relevant draft legislation, was important in order to arrive at a commonly shared multilateral assessment regarding the conformity of the proposed Russian system with WTO requirements.

## **2. Export Regulations**

### **Export Restrictions**

31. Under this item, work centered on the Russian Federation's continuing liberalization of the remaining export restrictions, licences and export duties. The Russian authorities explained that export liberalization had been carried on through a number of Government Resolutions: Government Resolution N°300 of 21 March 1996, Government Resolution N° 479 of 1 April 1996; Government Resolution N° 413 of 11 April 1996; and Government Resolution N° 1299 of 31 October 1996.

32. During further discussions, the Russian authorities argued that the remaining export quotas were applied pursuant to the Russian Federation's international obligations and were consistent with the relevant WTO provisions. The Working Party stressed, however, that export controls remained an important concern. Further clarification was required on the modalities used to give effect to the measures currently in place. Information and clarification is also needed on the introduction, in 1999, of export tariffs on a wide range of products.

### **Export Subsidies**

33. Information was sought about export subsidy practices, including tax. Detailed information was submitted on regional subsidy practices. (See also paragraph 34 below).

## **3. Internal Policies Affecting Foreign Trade in Goods**

### **Industrial Policy, including Subsidies**

34. Under this item, the Working Party focussed on examining detailed information submitted by the Russian Federation on subsidies, tax incentives related to exports, and, in particular, detailed information relating to regional subsidy programmes. Detailed examination took place of various categories of subsidies, including direct transfers from the federal budget; budget loans; delayed payments to the federal budget (related primarily to energy sector subsidies); investment tax credits; specific forms of federal assistance; subsidies to the regions; and financing of specific state programmes.

35. During work on this item, the Working Party noted the need for more precise and detailed information on subsidies, including further consideration of the categorization of subsidies paid to certain industries and the lack of statistical data required to fully evaluate the effect of subsidies on trade.

### **Technical Barriers to Trade**

36. Discussions under this item were detailed and ranged over several meetings. Substantial concerns were registered in relation to the current operation of the Russian Federation TBT system. The Russian Federation was requested to identify the precise means by which it planned to conform to WTO disciplines in this area, and invited to present the Working Party with regular updates on relevant legislative developments. Discussions also focussed on the evolution of the Russian TBT system into one that reflected more fully international standards and practices. In the course of the discussions the Russian authorities noted that the federal authority responsible for TBT matters was the State Committee of the Russian Federation for Standardization, Metrology and Certification ("Gosstandart of Russia"). Discussions took place on the work of Gosstandart, the progressive harmonisation of Russian standards with ISO and IEC standards, as well as on the need for a streamlining of conformity assessment requirements in line with the principles of proportionality and least trade-restrictiveness and on the operation of the Russian Federation's enquiry point, which had been recently established. It was noted that further informal technical work was necessary in order to arrive at a shared multilateral assessment of the conformity of the Russian system with WTO requirements so that enforceable multilateral commitments could be agreed.

### **Sanitary and Phytosanitary Measures**

37. Under this item, discussions centered on the requirements for hygienic certification of imported food, certain types of industrial products and household items. The Russian authorities noted that the responsible agency was the Ministry of Health of the Russian Federation (Department of Sanitary and Epidemic Surveillance or "Gossanepidnadzor"). The requirements for safety, nutrition value and labelling of food products were contained in Regulation 5061-89 of the Ministry of Health dated 1 August 1989, "On Medical and Biological Requirements for Quality of Food and Food Components", which had been substantially revised, taking into account provisions existing within the framework of relevant international organisations, i.e. FAO/WHO Codex Alimentarius Commission. The procedure for hygienic certification was set out in Regulation No. 1 of the Russian Gossanepidnadzor, "On The Procedure Of Issuing Hygienic Certificates For Products", dated 5 January 1993. This Regulation had been prepared on the basis of the following Laws of the Russian Federation: Law No 52-FZ "On Sanitary And Epidemiological Welfare Of The Population" dated 30 March 1999; Law No 2-FZ "On The Protection Of Consumer's Rights" dated 9 January 1996; Fundamentals of the Legislation of the Russian Federation No. 5487-1 "On Health Protection" dated 22 July 1993; Law No. 5151-1 "On Certification Of Products And Services" dated 10 June 1993; and, Law No. 2060-1 "On Protection of the Natural Environment" dated 19 December 1991.

38. Questions were posed concerning the requirement of veterinary control of importation of live animals and imported products of animal origin. The responsible agency was the Ministry of Agriculture and Food (Department of Veterinary Control). Discussions focussed on the process for obtaining an import permit and hygienic certificate (subsequently abolished in 1998), as required by the Law of the Russian Federation "On Veterinary Control" dated 14 May 1993. In addition, imports of animals or animal products also required a veterinary certificate issued by the exporting country, recognised by the Department of Veterinary Control. It was noted that continuing informal technical work on the subject matter of sanitary and phytosanitary measures was important in order to arrive at a shared multilateral assessment of the conformity of the Russian system with WTO requirements so that enforceable multilateral commitments could be agreed.

### **Trade-Related Investment Measures (TRIMs)**

39. Under this item, the representative of the Russian Federation maintained that the Russian legislation in force contained no trade related investment measures inconsistent with the requirements of the Agreement on TRIMs. Questions remained in particular regarding the possible discriminatory nature of certain provisions in force, notably in the Federal Law on Production Sharing Agreements, the extent to which Russia intended to ensure that the TRIMs Agreement will also be observed at sub-federal level, and provisions tying waivers of customs duty on imported aircraft to purchase/leasing of Russian-made equivalent aircraft. It was noted that certain recent developments would require a further review of this subject by the Working Party.

### **State-Trading Enterprises**

40. Under this item, it was noted that a sizeable part of the Russian Federation economy remained in State ownership and had been subject to State monopoly. Under Article XVII of the GATT 1994, the Russian Federation was requested to notify any *de facto* or *de jure* trade monopoly and trade activities of any State-owned firm benefitting from selective support or subject to State intervention. In response, the Russian Federation informed the Working Party that five entities currently existed in the Russian Federation which could meet the definition of State-trading enterprises under WTO provisions. These entities were limited to the energy (three) and raw natural diamond (two) spheres. Beyond the five notified enterprises, it was claimed that no entities carried special or exclusive trading rights in the Russian Federation. The Russian authorities intended to introduce further reforms in these sectors and confirmed that any present or future trading activities of State-owned enterprises and other enterprises with special and exclusive rights would in all circumstances act in full conformity with the provisions of the WTO Agreements. The Russian Federation would continue to notify any enterprise falling within the scope of Article XVII of the GATT 1994.

41. During discussions on the activities and possible privileges of UES of Russia and Gazprom, the Russian Federation authorities stated that both entities conducted their operations with regard to commercial considerations in the sense of relevant WTO provisions. Rosugol was no longer a state-trading organisation as its regulatory functions had been charged to the Federal Ministry of fuel and energy and its economic and commercial functions had been transferred to joint stock companies which operate on market principles. Further discussions examined the role of the Federal Agency for Food Market Regulation (subsequently abolished in 1998), and its role in the monitoring of agricultural product markets, promotion of competition, arranging commodity purchases in the agricultural market and acting as a state customer (procuring organisation) to maintain the current food reserves of the Russian Government.

42. Concern was nevertheless expressed that so far only partial adjustments had been introduced in the regulatory framework for government procurement (see also paragraph 44 below). It was noted that continuing work was important in order to arrive at a better understanding of the activities of these entities and a shared multilateral assessment regarding the conformity of the Russian practices in this field with WTO requirements so that enforceable multilateral agreements could be agreed.

### **Free Zones, Special Economic Areas**

43. During work under this item, the Russian authorities noted that although Russian law provided for the establishment of free-trade zones, such zones had not become significant to the Russian Federation's trade régime. Concerning Special Economic Zones, pursuant to Article 7 of the Federal Law On the Special Economic Zone in the Kaliningrad Region, all goods (including agricultural products) imported into the Kaliningrad Region were exempted from customs duties. But if such goods are later exported to other regions of the Russian Federation, customs import duties are payable in full, with the exception of goods processed and deemed to have been processed in the Kaliningrad Region. The Working Party remained concerned with the difficulty of assessing actual or potential trade distortions caused by current practices relating to the operation of these free zones or special economic areas.

## **Government Procurement**

44. Under this item, the Working Party examined whether the Russian Federation intended to join the Agreement on Government Procurement. The representative of the Russian Federation noted that the Russian Federation would not consider joining the Government Procurement Agreement. Members remained keen to pursue negotiations on this matter and sought a mutually satisfactory solution. The Russian authorities noted that government procurements were regulated by the Civil Code, by the Federal Law "On purchases goods for federal needs", 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", dated May 6, 1999 and a number of Presidential decrees and Government resolutions. Moreover, on 8 April 1997 the decree of the President of the Russian Federation No. 305 "On the priority measures for prevention of corruption and reducing the budgetary expenses in the organisation of the purchase of products for the state needs" had been adopted. Discussions focussed on the invitation process, the examination of bids, the notification of award of contract, liability for loss, and the process of appeal of the decision of the examining agency. (See also the remarks contained in paragraph 42 above). Some members felt that further information was necessary to clarify existing practices with a view to agreeing a commitment in this area.

## **Transit**

45. Under this item, the Working Party focussed on the conditions of treatment of goods in transit through the territory of the Russian Federation, in particular documentary and administrative requirements, and the consistency thereof from region to region of the Russian Federation, differential charges for CIS and non-CIS products and carriers and difficulties related to the processing of refunds of duty paid as security upon the end of the transit.

## **Agricultural Policies**

46. Brief discussions took place on this item in formal meetings of the Working Party. It was agreed that further technical work needed to be carried out in an informal plurilateral setting with interested Working Party members in order to agree a commonly shared methodology on which enforceable multilateral commitments could be based.

## **Trade in Civil Aircraft**

47. Discussions on this item centered on whether the Russian Federation would accede to the Agreement on Trade in Civil Aircraft at the time of accession without exceptions or transition periods. Some members felt that further clarification and information was required with a view to agreeing a commitment in this area.

## **Trade Related Aspects of Intellectual Property Rights (TRIPS)**

48. Discussions on this item ranged over several meetings of the Working Party. In particular, work focussed on details of legislation and enforcement of intellectual property rights protection in the Russian Federation and the compatibility with requirements of the TRIPS Agreement. Detailed discussions took place on the relationship between the current Federal system of protection of intellectual property rights with the basic international standards in this field including *inter alia* the provisions of the TRIPS Agreement.

49. The Russian authorities stated that the general thrust of the Russian Federation's policy on intellectual property was determined by the Constitution of the Russian Federation (Article 44-1) which guaranteed freedom of literary, artistic, scientific, technical and other types of creative activity, and teaching, and stipulates that the intellectual property shall be protected by law. The Russian Federation extended national treatment to legal entities and individuals of those countries which were

parties to agreements mandating such treatment. The application of most-favoured-nation treatment (with exceptions regarding advantages granted by the Russian Federation in accordance with certain agreements including agreements with CIS countries) on intellectual property was stipulated in several bilateral agreements.

50. It was noted that specific deficiencies existed in the current Russian legislative framework in this area. Discussions focussed on copyright and related rights (particularly on the requirements of the Berne and Rome Conventions); trademarks, including service marks; geographical indications, including appellations of origin; inventions and industrial designs; patents; plant varieties and animal breed protection; layout designs of integrated circuits; protection of undisclosed information and the enforcement thereof. The Working Party requested information on the precise means by which the Russian Federation proposed to conform to WTO disciplines in this area. In addition, the continuing need for information concerning legislative developments, including draft legislation expected to implement TRIPS norms in the Russian Federation was also stressed.

## **POLICIES AFFECTING TRADE IN SERVICES**

51. Discussions in this area were considerably delayed by a lack of systemic information available to the Working Party. Finally, in October 1999 the Russian Federation made available a market access offer in Services to members of the Working Party and a preliminary discussion began at the May 2000 meeting. Concern was expressed regarding the large number of horizontal limitations on market access, and the proposed number of MFN exemptions contained in the offer.

## **TRANSPARENCY**

### **Publication of Information on Trade**

52. Under this item the Working Party examined the manner in which laws and other decisions related to trade in goods and services were made publicly available, particularly in the context of Article X of the GATT 1994. The Russian Government enacted legislation requiring that all laws and normative acts related to trade would be published promptly in the official journal and that no law or rule related to international trade would become effective prior to such publication. It was felt that further clarification was required with a view to determine enforceable multilateral commitments required by WTO agreements.

### **Notification**

53. Under this item, the Russian authorities confirmed that the Russian Federation would provide all notifications required pursuant to WTO Agreements. It was also felt that an enforceable multilateral commitment was required in this area.

## **TRADE AGREEMENTS**

54. During discussions on this item, the Working Party focussed on the Russian Federation's preferential agreements, particularly with countries of the former Soviet Union. It was noted that, currently, the Russian Federation had bilateral agreements on trade and economic co-operation with 138 countries. 126 of those agreements contained provisions on MFN treatment. Article 3 of the Partnership and Co-operation Agreement with the European Communities provided for the possible establishment of a Free Trade Area. Bilateral agreements on free trade with other CIS countries, permitting the importation of any goods (including agricultural products) originating from CIS countries into the customs territory of the Russian Federation without the payment of duties was discussed. Those free trade agreements also applied to trade relations between the Russian Federation and the three Republics of Uzbekistan, Turkmenistan, and Tajikistan.

55. Discussions were also undertaken on the framework agreements signed between the Russian Federation and Belarus, Kazakstan and Kyrgyz Republic in 1995-1996 which provided for the step-by-step formation of a customs union. The Russian authorities noted that the formation of such customs union was in the initial stage, while trade with these countries was currently carried out under the conditions of a free trade regime, without any limitations or restrictions. The Working Party generally felt that more detailed information was required on this matter, particularly in view of the ongoing bilateral market access negotiations.

**Next steps**

56. Finally, at the Working Party meeting of 25 May 2000, the last under my chairpersonship, it was agreed that the Working Party would reconvene informally in October to take stock of the progress in the finalisation of key legislation, including the Customs and the Tax Codes. At that informal meeting, the Working Party would also finalize the agenda and date of the next formal meeting which could be expected to take place before the end of 2000.

57. On the fringes of the October meeting, an extensive round of bilateral and plurilateral contacts on market access and other subjects should also take place to give the next formal meeting of the Working Party sharper focus and direction.

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