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Working Party on the Accession of the Russian Federation

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ACCESSION OF THE RUSSIAN FEDERATION

Overview of the Current Trade Policy Regime of the Russian Federation

Revision

BACKGROUND

1. The Government of the Russian Federation applied for 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 to 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. The Working Party met on 17-19 July 1995, 4-6 December 1995, 30-31 May 1996, 15 October 1996, 15 April 1997, 22-23 July 1997, 9-11 December 1997, 29 July 1998, 16-17 December 1998, and 25 May 2000 under the Chairmanship of H.E. Mr. W. Rossier (Switzerland) and on 18 December 2000 and 26-27 June 2001 under the Chairmanship of H.E. Mr. K. Bryn (Norway).

Documentation

2. The Russian Federation presented to the Working Party Members a Memorandum on the Foreign Trade Regime of the Russian Federation (L/7410), responded to the questions submitted by Members on the foreign trade regime of the Russian Federation, together with the replies thereto (see in particular WT/ACC/RUS/2 and Corr.1, WT/ACC/RUS/4, WT/ACC/RUS/9 and Corr.1, WT/ACC/RUS/13, WT/ACC/RUS/17 and Corr.1 WT/ACC/RUS/23, WT/ACC/RUS/25, WT/ACC/RUS/30, WT/ACC/RUS/38) and provided other information listed in document

WT/ACC/RUS/11/Rev.11 (on the legislative texts and other documentation see Reference paper 1[1]). Russian Federation had been an observer to the GATT 1947 since January 1992 when Russia continued the former USSR observer status and, in this capacity, had witnessed the successful conclusion of the Uruguay Round and followed its implementation. Since its request for accession to the WTO and pursuant to the reform of its trade regime, the Russian Federation had progressively adopted laws and regulations consistent with the WTO multilateral rules and disciplines. As a result of the Government's concerted efforts to encourage free market and entrepreneurial activity and to facilitate foreign investment, the economy of the Russian Federation had been heading towards greater economic stabilization and growth. The Government also made substantial efforts to combat inflation and control the budgetary situation of the country. Membership in the World Trade Organization was therefore one important missing aspect in the Russian Federation's trade policy. WTO membership was one of the priorities of the Governmental program of economic reforms.

ECONOMIC POLICIES

Monetary and Fiscal Policy

3. Current economic policies were aimed at achieving fiscal and monetary stability in the country. The budget deficit had been reduced and finally eliminated through expenditures restraint and increased revenues. On the revenue side, a renewed tax base system accompanied by more efficient tax collection instruments, including the introduction of a new Tax Code Part One of 31 July 1998 No. 146-FZ (as amended on 30 March, 9 July 1999, 2 January, 5 August 2000, 24 March 2001) and Part Two of 5 August 2000 No. 117-FZ (as amended on 29 December 2000, 30 May, 6, 7, 8 August 2001) which puts Russia's taxation system in compliance with relevant WTO requirements.

4. The current Russian Federation's monetary policy was aimed at reaching monetary and price stability through measures to reduce consecutively the inflation and thus to create conditions for sustainable economic growth. This objective was basically being achieved by controlling money supply, maintaining floating exchange rate of national currency, consolidating gold and foreign exchange reserve assets. All these actions were accompanied by consecutive measures on liberalization of foreign exchange regulation. The major instruments of monetary policy, which the Central Bank of Russia (CBR) was in charge of, were the following – refinancing of commercial banks, operations on open market, depository operations, mandatory reserve requirements and interest rates policy. On a methodology side, this policy was based on a combination of two internationally spread principles: inflationary targeting and money supply targeting (i.e. money mass aggregate M2).

[1] Reference Papers 1 to 14 are available in document WT/ACC/SPEC/RUS/21/Rev.1.

Foreign exchange and payments system

5. The Russian Federation, as a member of the International Monetary Fund since 1992, followed internationally accepted monetary rules. The national currency - the Rouble (equal to 100 Kopeks) - was convertible to foreign currencies on the basis of current market rates based on supply and demand. According to the commitments undertaken by the Russian Federation under Article VIII of the Articles of Agreement of the International Monetary Fund current payments were carried out freely, including in particular outward transfers of returns and other proceeds from foreign investments.

6. There were no subsidies on purchases and sales of foreign exchange. The tax for purchase of foreign currency in cash amounted to 1 per cent. As to mandatory resale by Russian exporters of a part of their export earnings on the internal exchange market the relative ceiling has been reduced from 75 per cent to 50 per cent. There were no restrictions for residents to buy foreign currencies on the internal exchange market to meet their payment commitments on current transactions. Foreign currencies to pay capital transactions could also be freely obtained on this market upon the condition to meet the requirement of the CBR. This requirement, in case of prepayment to be transferred under contracts for imports, provided for the necessity for resident to put on a deposit in an authorized bank an amount in Roubles equal to 100 per cent of the sum used for buying foreign currency for the purpose of prepayment. This requirement represented some kind of pledge established as a means to avoid illicit capital flight. The Russian Federation made substantial payments to service its external debt and needed adequate currency control measures to control unauthorised outflow of capital. The requirement was not valid for purchases by residents of foreign currencies to pay for imports already delivered to the territory of the country. Russian physical persons had the right to open freely banking accounts in foreign currencies in the OECD and FATF countries for non-commercial use.

7. Within the framework of its policies to combat illegal transfer of capital and to maintain the integrity of financial system of the country the Russian Federation implemented non-discriminatory measures of currency regulation and currency control which did not constitute restriction for trade in goods and services. Procedures connected with implementation of these measures were not designed as means of avoiding the Russian Federation’s future commitments under the WTO Agreements. These measures were in conformity with Russia's commitments under Articles of Agreement of the IMF.

8. Capital transactions were subject to the CBR’s regulative procedures. These transactions could require permissions of the CBR, or notifications to the CBR or could be conducted freely. Permissions and notifications did not constitute unnecessary barriers to trade. The procedures were transparent

being established by publicly available normative acts of the CBR. The number of capital operations requiring the CBR's permissions was constantly declining in favour of notification procedures and free execution. For example, direct and portfolio foreign investments through acquisition of equity participation in charter capitals of Russian juridical persons-residents (non credit institutions) on a primary market and foreign investments for joint activity with these residents were not restricted.

9. Russian juridical persons - residents had the right to acquire and reimburse freely credits and loans in foreign currencies attracted from non-residents for the period of time exceeding 180 days subject to simple notification to the CBR. Further liberalization of transfers in foreign currencies by residents abroad would include payments for immovable property and purchases and sales of commercial securities nominated in foreign currencies through authorized banks (decision was awaiting).

10. Export proceeds were subject to repatriation requirements. The Federal Law N 72 of 31 May 2001 "On changes and amendments to the Law of the "On currency regulation and currency control" simplified requirements in question, particularly, by prolonging delays for a number of capital transactions to be carried out freely without permissions of the CBR. In accordance with this Law Russian residents could defer up to three years period settlements for some exported machinery and equipment and up to five years for payments related to construction and sub-contracting works carried out abroad as well as for payments connected with insurance and reinsurance of these projects.

11. The monetary policy, foreign exchange and payments system were issues of great attention in Russia-IMF relationship. Progress made by Russia in elaboration and implementation of clear and sound policies in these fields for the last decade was to a great extent reached due to the consultative mechanism, joint programs and direct support by the IMF. Measures in these fields were coordinated with the IMF, including in particular those covered by the provisions of Article XV of GATT 1994 and of Articles VI and XI of GATS.

Investment Regime

12. Although the investment policy, *per se*, was not covered by WTO actual provisions, Russia provided the information in the following paragraphs, given the importance of this policy in the shaping of the country's overall economic policy.

13. The basic texts relating to the activities of foreign investors were set forth in the Constitution of the Russian Federation adopted on 12 December 1993, the Civil Code Part One 30 November 1994 No. 51-FZ (as amended on 20 February, 12 August 1996, 8 July 1999, 16 April, 15 May 2001) and

Part Two of 26 January 1996 No. 14-FZ (as amended on, 12 August 1996, 24 October 1997, 17 December 1999), and a number of other legislative acts such as the Federal Law "On Foreign Investment in the Russian Federation" No. 160-FZ of 9 July 1999, the Federal Law "On Investment Activity in the Russian Federation in the form of capital investment" No. 39-FZ of 25 February 1999 (as amended on 2 January 2000), the Law of the Russian Federation "On currency control and currency regulation" of 9 October 1992 № 3615-1 (as amended on 29 December 1998, 5 July 1999 and 8 August 2001) and the Federal Law "On Production Sharing Agreement" of 30 December 1997 No. 225-FZ (as amended on 7 January 1999, 18 June 2001). The adoption of the Land Code of the Russian Federation, a number of legislative acts on "debureaucratization" (Federal Law "On Licensing of Specific Types of Activity" No.128-FZ of 8 August 2001, Federal Law "On the Protection of Legal Entities' and Individual Entrepreneurs' Rights in the Case of Exercise of State Control (Supervision)" No.134-FZ of 8 August 2001), Tax Code of the Russian Federation significantly contributed to the formation of favourable investment climate, facilitation of activity of Russian and foreign companies on the Russian market.

14. The Government of the Russian Federation had entrusted the Ministry of Economic Development and Trade with a wide range of responsibilities in the field of foreign investments, such as co-ordination of the corresponding activities of federal and regional bodies, organisation of tenders, concession agreements, production sharing agreements and bilateral investment agreements.

15. The current policy of the Government provided for encouragement of the investments in the Russian Federation. The investment policy of Russia was directed at creation of conditions promoting expansion of domestic and foreign investments, and also formation of transparent and stable rules of economic activity. The Russian legislative acts mentioned above provided proper guaranties for protection of foreign investors' rights and interests and advantageous conditions for foreign investors and enterprises with foreign investments within national investment legislation and in conjunction with international treaties signed by the Russian Federation. According to the Federal Law "On Foreign Investment in the Russian Federation" the foreign investors in the Russian Federation were treated no less favourably than Russian ones with the exceptions provided by the federal legislation.

State ownership and privatization

16. Although privatization policy *per se* was not covered by WTO actual provisions, Russia believed that for the purpose of transparency it could be interesting to the members of the Working Party to get a more close look on this important part of Russia's internal economic policy (on the information about privatization processes in the Russian Federation see Reference paper 2 of the document WT/ACC/SPEC/RUS/21/REV/1).

Pricing Policies

17. The main goal of the economic policy pursued by the authorities was to introduce the principle of free market price formation based on supply and demand. Therefore, prices in the vast majority of sectors in the Russian economy were determined freely by market forces thus balancing between supply and demand.

18. Pricing in sectors where natural monopolies existed (namely in the sector of natural gas; electric and thermal energy; pumping, transhipment and storage of oil, railway transportation, services of transport terminals, sea and river ports, airports, services of generally accessible electric and postal communication services); and products purchased exclusively or mainly by the State such as defence products were based on production costs and established in a way which excluded abuse by the producer/supplier of its monopoly position. The procedure for and principles of fixing prices for goods and services regulated by the State differed depending on the type of goods or services: for some a minimum price level was fixed (e.g. for alcoholic beverages above 28 proof) and a maximum price level for others (e.g. in railway transportation). In addition to that, in respect of air, road and river transport services sectors involving competing groups of carriers, the carriers themselves had the right to set their prices within established profit margins.

19. Price and tariff fixing for products and services of natural monopolies was by reference to: cost-effectiveness of their production including the expenses of production (marketing) of products and services; taxes and other payments; the cost of fixed production assets; the requirement of investment for reproduction purposes, depreciation charges; estimated profits; remoteness of different consumer groups to the production site of products and services; adequacy of the quality of the products and services produced and marketed to the consumer demand.

20. Regional governments regulated prices for products and services classified as local natural monopolies. These included gas and solid fuel sold to the population, transportation of passengers and luggage by all means of public transport in municipal transport networks, communal services to households, water supply and sewerage services. At the regional government level, prices for electrical energy provided by regional electrical power-plants were regulated, as well as prices for all means of commuter passenger transportation (except railways), communal services for the population (including rent), and public utilities. Fixed prices were established for such products and services. Price and tariff decisions taken by federal executive bodies authorized to regulate the activity of natural monopolies were obligatory for the regional executive bodies and local executive authorities. State regulation of prices for goods and services provided by “local natural monopolies” was carried

out by regional executive bodies independently, to the extent provided by the current legislation powers taking into account recommended prices approved by the federal executive bodies.

21. Contract prices for goods and services subject to state price regulation delivered on the territory of the Russian Federation were fixed by enterprises independently, subject to the state of the market and the current regulatory legislation regardless of whether they were sold to domestic or foreign purchaser. Contract prices for exports of goods and services subject to state price regulation from the territory of the Russian Federation were fixed by enterprises independently, depending on market conditions.

22. Order No. 12/1 of the Federal Energy Commission of 24 March 1999 "On granting a 50 percent reduction of prices of gas to enterprises which produce chemical fertilizers, chemical protections for plants, and raw materials for production thereof, in 1999" was cancelled in 1999 and from then on there were no other legal provisions that provided for similar price reductions for industries. Since 1 August 2001 export and import cargoes to / from Russian ports were transported through the territory of Russian Federation according to domestic tariffs and since 1 March 2002 it was planned to apply this approach to transportation of foreign cargoes through all frontier points.

23. Decree of the President of the Russian Federation "On measures to streamline the state regulation of prices (tariffs)" of 28 February 1995 No. 221 (as amended on 8 July 1995) and Resolution of the Government of the Russian Federation "On measures to streamline the state regulation of prices (tariffs)" of 7 March 1995 No. 239 (as amended on 8 February, 15 April, 31 July 1996, 30 June 1997, 30 July, 28 December 1998, 6 February, 7 May, 16 June, 20 August 2001), established the main principles of the state regulation of prices (tariffs) on the domestic market of the Russian Federation, carried out by the Government of the Russian Federation, federal authorities and sub-federal bodies of executive power for the concrete types of goods and services (see also Reference paper 3). Regulatory legal acts issued by federal executive bodies concerning state regulation of prices for goods and services were subject to mandatory official publication. All decisions by the Government of the Russian Federation concerning state regulation of prices and tariffs, including those for services of natural monopolies, were subject to publication in "Rossiiskaya Gazeta".

Competition Policy

24. The Government attached great importance to competition policy. Noting that it was not fully covered by current WTO provisions, the Russian Federation followed closely the work of the WTO Working Group on the interaction between trade and competition policy. The basic goal of competition policy in the Russia Federation was to promote and maintain fair competition of

economic operators in markets, wherever this was viable. Anti-competitive market structure and unfair business practices that impeded competition could be addressed through the application of the Anti-monopoly legislation.

25. Antimonopoly legislation had been adopted, including the Federal Law "On Competition and Restriction of Monopoly Activity on Commodity Markets" No. 948-1 of 22 March 1991 (as amended on 24 June 1992, 25 May 1995 and 2 January 2000), the Federal Law "On Making Amendments and Supplements to the Federal Law "On Consumers Rights Protection" and the Code of the RSFSR On Administrative Offences" No 2-FZ of 9 January 1996 (as amended on 17 December 1999) and the Federal Law "On Protection of Competition in the Financial Services Market" No 117-FZ of 23 June 1999.

26. The Russian legislation in force contained, therefore, all the basic elements of state supervision and control over agreements (Concerted Actions) of economic operators restricting competition, abuse of dominant position on the market by economic operators, economic concentration. Another important element of the Russian anti-monopoly legislation was preventing, limiting and suppressing of unfair competition.

27. According to Article 3.1. of the Law of the Russian Federation " On Competition and Limitation of Monopolies in Commodity Markets" the role of the Ministry of Antimonopoly Policy of the Russian Federation (MAP) was to assist the development of commodity markets and competition, and prevent, restrain and prosecute formation of monopolies and unfair competition.

28. The main functions of that Ministry included: introducing legislative initiatives in the field of anti-monopoly activity, developing and executing measures on demonopolization of production and distribution, monitoring compliance with anti-monopoly requirements in the establishment, reorganization and liquidation of economic enterprises. The Ministry conducted a preliminary review and control of the establishment and mergers, affiliation of commercial organizations or their association, transaction of acquisition of rights, shares in the capital of commercial organization, receiving by a person (group of persons) into ownership of fixed assets and intangible assets of another person. The function mentioned above is realized through prior approval or notification of antimonopoly organs.

29. MAP regulated the securities market and banking and insurance services markets subject to the Federal Law "On Protection of Competition in the Financial Services Market" in conjunction with other federal authorities of executive power.

30. In 2000, MAP identified 7,570 violations of the provisions of the Federal Law of the Russian Federation " On Competition and Limitation of Monopolies in Commodity Markets". 6,510 lawsuits were filed in prosecution of the violations identified. Over 2,700 orders to remove the violation were given.

31. The bigger part of the violations identified dealt with abuse of dominant position in the market place by business corporations (11 per cent of all lawsuits filed). Abuse of dominant position in the marketplace by business corporations were identified mainly in companies in natural monopolies : heat and power engineering (35 per cent of total violations), in communications (15 per cent), in transport (10-mostly in railway transport), and in housing and utilities.

32. Activities of MAP and its territorial divisions were reported in the journal "Antimonopoly Ministry Newsletter", on the web site (www.maprus.ru), and once a month through press conferences or round-table discussion. In 2000, 243 press releases were produced and sent to mass media.

33. Pursuant to Article 71.g of the Constitution of the Russia Federation, competition policy did not fall within the jurisdiction of regional authorities.

FRAMEWORK FOR MAKING AND ENFORCING POLICIES

Branches of State Power, Federal Structure and Delimitation of Jurisdiction between Federal and Sub-Federal Authorities

34. In accordance with the Constitution, State power in the Russian Federation was exercised by the President of the Russian Federation, the Federal Assembly (the Council of the Federation and the State Duma), the Government of the Russian Federation, and the courts of the Russian Federation.

35. The President of the Russian Federation was the Head of State. He determined the guidelines of domestic and foreign policies of the State. Pending a resolution of the matter by the appropriate court, the President had the right to suspend the operation of acts of the executive power bodies of the "subjects"[2] of the Russian Federation if they were not in compliance with the Constitution of the Russian Federation, federal laws and international commitments of the Russian Federation.

36. The Federal Assembly (the Parliament of the Russian Federation) was the representative and legislative authority of the Russian Federation. It consists of two chambers - the Council of the

[2] Proceeding from Article 5 (1) of the Constitution of the Russian Federation, the term "subjects" of the Russian Federation includes republics, regions, oblast, cities of federal importance, autonomous regions and autonomous areas. Article 65 of the Constitution contained the exhaustive list of "subjects" of the Russian Federation.

Federation and the State Duma. The Council of the Federation included two representatives from each subject of the Russian Federation: one from the legislative and one from executive body of state power. Order of formation of the Council of the Federation is also determined by the Federal Law "On the Order of Formation of the Council of the Federation of the Federal Assembly of the Russian Federation" of 5 August 2000 No. 113-FZ. The State Duma consisted of 450 deputies elected for a term of four years. Formation of the State Duma was determined by the Federal Law "On Election of Deputies to the State Duma of the Russian federation" of 24 June 1999 No. 121-FZ (as amended on 12 April, 10 July 2001).

37. Both chambers were involved, inter alia, in the adoption of the federal laws on federal budget, federal taxes and dues, financial, currency, credit, customs regulation and monetary issues, ratification and denunciation of international treaties and agreements of the Russian Federation.

38. Executive power in Russia was exercised by the Government of the Russian Federation. The Government, inter alia, ensured the implementation in the Russian Federation of a single trade, financial, credit and monetary policy, the implementation of foreign policy, the implementation of measures required to ensure the rule of law as well as establishing customs tariffs.

39. The right of legislative initiative was vested with the President of the Russian Federation, the Council of the Federation, the Members of the Council of the Federation, the Deputies of the State Duma, the Government of the Russian Federation, and the legislative bodies of the subjects of the Russian Federation. The right of legislative initiative was also vested with the Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation, the Supreme Court of Arbitration of the Russian Federation in matters under their jurisdiction.

40. The judicial system of the Russian Federation was instituted by the Constitution of the Russian Federation and Federal Constitutional Laws "On Judicial System of the Russian Federation" of 31 December 1996 No. 1-FKZ, "On Constitutional Court of the Russian Federation" of 21 February 1994 No. 1-FKZ (as amended on 8 February 2001), "On Arbitration Courts in the Russian Federation" of 28 April 1995 No. 1-FKZ. Judicial power was exercised by means of constitutional, civil, administrative and criminal court proceedings. Besides the rules of civil procedure in federal courts of general jurisdiction established by the Civil Procedure Code of the RSFSR of 18 December 1965, the procedure for the settlement of disputes by arbitration courts was stipulated by the Arbitration Procedure Code of the Russian Federation of 5 May 1995 № 70-FZ. The rates of state fees for claims or other statements or complaints submitted to the courts of general jurisdiction or to arbitration courts were established in the Law of the Russian Federation No 2005-1

of 9 December 1991 "On State Fees". Justice in the Russian Federation was exercised by courts only. The judicial power was separated and acted independently of the legislative and executive powers.

41. The Republics within the Russian Federation had their own constitutions and legislation. The territories, regions, cities of federal importance, autonomous regions and autonomous areas have their charters and legislation. According to the Constitution of the Russian Federation, the legislation of the subjects of the Russian Federation should not contradict the federal legislation adopted within the jurisdiction of the Russian Federation and the joint jurisdiction of the Russian Federation and its subjects. In case of contradiction between a federal law and any other act issued in the Russian Federation within federal and joint jurisdiction of the Russian Federation and its subjects the federal law should be applied.

42. The Federal law No 184-FZ of 6 October 1999 "On the general principles of the organisation of the legislative (representative) and executive organs of state power of the subjects of the Russian Federation" (as amended of 29 July 2000, 8 February 2001) established the mechanism of ensuring the conformity of the constitutions, laws and other legal acts of the subjects of the Russian Federation to the Constitution of the Russian Federation and federal laws. The President had the right to address legislative bodies of state power of the subject of the Russian Federation with recommendation to put in conformity with the Constitution of the Russian Federation, federal constitutional laws and federal laws of the constitution (charter) the law of the subject of the Russian Federation or other normative legal act of legislative body of state power of the subject of the Russian Federation. Besides the President had the right to suspend the operation of acts of the executive power bodies of the subjects of the Russian Federation if they were not in compliance with the Constitution of the Russian Federation, federal laws and international commitments of the Russian Federation as it was mentioned earlier in this section.

43. The Constitution provided for the clear jurisdiction of the Russian Federation and the joint jurisdiction of the Russian Federation and its subjects.

44. The jurisdiction of the Russian Federation included inter alia the establishment of the principles of federal policy and federal programmes in the sphere of state, economic, ecological, social, cultural and national development of the Russian Federation; of legal groups for a single market as well as financial, currency, credit, and customs regulation, monetary issues, the principles of pricing policy; federal economic services, including federal banks, federal budget, federal taxes and dues, federal funds of regional development, foreign policy and international relations of the Russian Federation, international treaties and agreements of the Russian Federation, issues of war and peace, foreign

economic relations of the Russian Federation, federal power systems, nuclear power-engineering, fission materials, federal transport, railways, information and communication, outer space activities.

45. The joint jurisdiction of the Russian Federation and the subjects of the Federation included, *inter alia*, issues relating to the ownership, use, and disposal of land, mineral resources, water and other natural resources; delimitation of state property; establishment of general principles of taxation and levying of taxes the fulfilment of the Russian Federation's international treaties.

46. Generally recognised principles and norms of international law and international treaties to which the Russian Federation was party were constituent part of its legal system. According to Article 15 of the Constitution of the Russian Federation if an international treaty to which the Russian Federation was party provided for other rules than those set forth by Russian Federation domestic law, the rules of the international treaty apply.

47. According to Article 3 of the Federal Law of 13 October 1995 No. 157-FZ "On State Regulation of Foreign Trade Activity" (as amended on 8 July 1997, 10 February 1999) 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 by the international treaties to which the Russian Federation is a party. Article 6 of said Law provided for *inter alia*, the jurisdiction of the Russian Federation to form the concept and strategy of the development of foreign trade relations and the basic principles of the foreign trade policy; to ensure the 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 and of the Russian persons and to conclude the international treaties of the Russian Federation in the field of foreign economic sphere.

48. Federal Law of 2 January 1999 No. 4-FZ "On Co-ordination of International and Foreign Economic Ties of the Subjects of the Russian Federation" provided, *inter alia*, the regions with the right to negotiate and conclude agreements with their partners on international and foreign economic ties. Such agreements could not contradict federal legislation and the international commitments of the Russian Federation. The Law made it compulsory for the subjects to notify the appropriate federal authorities before entering into negotiation and set forth a procedure of prior approval of the draft agreed text of the agreement by the appropriate federal authorities. The agreements concluded by the subjects of the Russian Federation were not considered international treaties.

49. As noted above, the right to conclude international treaties falls within the jurisdiction of the Russian Federation. But if an international treaty of the Russian Federation affected issues falling within the jurisdiction of the subjects of the Russian Federation, such treaty should be concluded in

co-ordination with state power bodies of interested subjects of the Russian Federation. This rule was provided for by Federal Law No. 101 FZ of 15 July 1995 "On international treaties of the Russian Federation". As regards international treaties of the Russian Federation affecting issues falling within the joint jurisdiction of the Russian Federation and the subjects of the Russian Federation, the Law established that federal bodies of executive power should send the main provisions or the draft of a prospective treaty to the state power bodies of the interested subject of the Federation. Proposals received from the subjects are considered in the course of preparation of the draft of the international treaty.

50. Under the Russian legislation the international treaty meant an international agreement concluded by the Russian Federation with a foreign State (or States) or with an international organization in written form and governed by international law, regardless of whether such an agreement consisted of one document or several interrelated documents, and also regardless of its specific name. The Protocol of accession to the WTO would have the status of an international treaty and as such become an integral part of the legal system of the Russian Federation.

51. The Protocol of accession, in the event of accession of the Russian Federation to the WTO, should be subject to ratification. The ratification of the international treaties of the Russian Federation was to be effected in the form of the federal law.

52. In accordance with the Constitution of the Russian Federation the Constitution itself and federal laws had supremacy over the whole territory of the Russian Federation.

53. The bodies of state authority, the bodies of local self-government, officials, private citizens and their associations were to observe the Constitution of the Russian Federation and laws.

54. Besides according to the Law "On international treaties of the Russian Federation" the international treaties of the Russian Federation were subject to conscientious execution in accordance with the conditions of the international treaties themselves, the norms of international law, the Constitution of the Russian Federation, this Law and any other legislative acts of the Russian Federation. This law also contained rules on ensuring the execution of the international treaties of the Russian Federation by the President and the Government of the Russian Federation, federal bodies of the executive authority, bodies of state authority of the relevant subjects of the Russian Federation.

55. Any administrative decision on issues covered by the WTO Agreement could be appealed. Depending on the issue concerned appeals could be addressed either to the Government or its agency which controlled the activity of the body responsible for such decision, or the court of respective

jurisdiction. In particular procedures of the administrative appeal were stipulated in the Tax code of the Russian Federation and the Customs code of the Russian Federation. The judicial system of the Russian Federation was described in paragraph 40.

POLICIES AFFECTING TRADE IN GOODS

Registration Requirements

56. The elimination of the State monopoly in foreign trade was proclaimed by the Decree of the President No. 213 of 15 November 1991 "On Liberalisation of Foreign Economic Activity on the Territory of the Russian Soviet Federal Socialist Republic" (as amended on 27 October 1992) under which all enterprises were given the right to carry out foreign economic activities, whatever their form of ownership. This principle was further provided by the Civil Code and the Constitution of the Russian Federation. The State did not restrict the right of persons or entities to import or to export.

57. The trading rights in foreign trade on the territory of Russia had been further promulgated by the enactment on 13 October 1995 of the Federal Law "On the State Regulation of the Foreign Trade Activity" No. 157-FZ. Article 2 of this law stipulated that foreign economic activity could be carried out both by Russian as well as foreign participants of foreign economic activities.

58. Foreign participants of foreign economic activities were legal entities or natural persons recognised as such by the law of foreign states. If foreign companies or natural persons were carrying out foreign economic activity (i.e. exportation or importation) as foreign participants of foreign economic activity, they did not need to be registered or have any investments in Russia.

59. The Russian participants of foreign economic activities were Russian juridical entities or natural persons, who have obtained the state registration as juridical entities or individual entrepreneurs in accordance with the Russian law.

60. The state registration of legal entities and natural persons as individual entrepreneurs was performed in accordance with Article 51 of the Civil Code and Presidential Decree "On Streamlining of State Registration of Enterprises and Entrepreneurs in the Territory of the Russian Federation" of 8 July 1994 No. 1482. The registration of a legal entity required submission of an application, the charter of the legal entity in question approved by its founders, documentary confirmation of payment of no less than 50 per cent of the charter capital of the firm, and certificate of payment of state duty in the amount of 252 Rubles. Registration of a natural person as an individual entrepreneur required application from such person and a document confirming the payment of the registration charge in the amount of 100 Rubles. Denial of registration may be appealed through a judicial procedure. The

registration act permits the enterprise/individual entrepreneur to engage in economic activity, including foreign economic activity.

61. The same principles were laid down by the Federal Law No. 129-FZ "On State Registration of Juridical Entities", which regulated the registration of legal entities in case of their establishment, reorganisation or liquidation, of introducing amendments to their instituting documents and the conduct of the State Registry of legal persons. This Law would replace the above Decree of the President.

62. It established the transparent order for state registration of legal entities and did not contain any restrictions or discrimination for foreign founders of legal persons. The registration was effected solely by federal bodies.

63. The lists of documents, necessary for state registration of a new legal entity as well as of an entity under reorganisation were stipulated in Article 5 of the Law (application for registration, description of the organisational form, address, copies of instituting documents, and the charter capital) and were exhaustive.

64. Under subpara 4 of article 9 the registering body could not demand any other documents than those mentioned in the Federal Law.

65. The Federal Law "On Registration of the Juridical Persons" would be valid from 1 July 2002.

66. Sub-federal entities had no rights to impose the requirements on legal or natural persons that might affect their rights to engage in importation or exportation of goods.

67. Article 10 of the Law «On the State Regulation of Foreign Trade Activity» established that all Russian participants of foreign economic activities were permitted to undertake foreign economic activity, regardless of the form of their property and without any additional special permission or activity licence. This rule had three exceptions.

68. The first was the importation and exportation of alcoholic beverages. Pursuant to the Federal Law "On State Regulation of Production and Turnover of Ethyl Alcohol, Alcoholic and Alcohol-Containing Products" of 22 November 1995 No. 173-FZ (as amended on 7 January 1999) natural persons and legal entities wishing to do business in these areas were to obtain activity licence in the agencies of the Ministry of Tax and Charges Collection after their state registration. Conditions and requirements to be fulfilled by the enterprises and entrepreneurs dealing in this sphere were stipulated by Articles 18 – 21 of the said Law. Licensing fees provided by the Federal Law No. 5-FZ "On

Charges for Issuance of Licenses for Production and Turnover of Ethyl Alcohol, Alcohol Containing - Products" of 8 January 1998 were as follows.

Licensing fees structure for manufacturing, storage, wholesale, exportation and importation of alcoholic beverages

Types of Activity	Licence fees (in minimum wages)	Equivalent in Roubles
Manufacturing and wholesale of alcoholic beverages	500	50,000
Exportation of alcoholic beverages	100 or 500*	10,000 or 50,000*
Importation, storage and wholesale of alcoholic beverages	1,000 or 15,000*	10,000 or 1,500,000*

* Lesser fees correspond to payment for single operation license, while larger ones - for general licence. Single operation licenses for exports or imports were issued for delivery of alcoholic products for the customs value of up to 10,000 minimum wages (approximately US$32,000) or of the volume in terms of absolute alcohol of up to 2,000 decilitres and for duration of not more than 2 months. The general licence was issued for exports or imports of alcoholic products for the period of one year starting from the date of issuance of this licence.

69. The second exception was the exports from the Russian Federation of precious metals and precious stones in accordance with the Decree of the President " On the exportation from the Russian Federation of Precious Metals and Precious Stones" No. 742 of 21 July 2001.

70. The third exception were imports and exports of pharmaceutical products (medicines). According to the Federal Law "On medicines" FZ-86 of 22 June 1998 the right to exports and imports of pharmaceuticals is enjoyed by Russian participants of foreign economic activities, who have the licence for production or wholesale trade of these goods.

71. Once a company obtained such an activity licence in all three cases mentioned above it would be eligible for the receipt of import and export licenses each time it wished to import or export goods subject to licensing.

72. The registration requirement for export contracts was introduced by Resolution of the Russian Government of 1 July 1994 No. 758, and was entirely repealed by Resolution of the Russian Government of 21 March 1996 No. 300. Registration of import contract has never been practised in Russia. Thus Russia did not maintain any special registry of import or export contracts. There were no plans to restore such registration in any form.

Customs Regulations and Customs Tariff

73. Russia had been an active member of the World Customs Organization even before gaining full membership on 8 July 1993. Russia had joined the International Convention on the Harmonized Commodity Description and Coding System on 1 January 1997. The Customs Tariff Law and the Customs Code constituted the legal framework for the customs regime of Russia. The right of appeal against decisions of Customs was ensured *inter alia* in Articles 17 and 404-419 of the Customs Code. The Customs Code had been applied with minor changes since 1993. The new draft of the Customs Code and draft Chapter 27 of the Tax Code contained provisions on customs procedures and customs administration system in full conformity with the relevant WTO Agreement.

Ordinary Customs Duties

74. The structure of customs tariffs was regulated by the Law "On Customs Tariff", which had entered into force on 1 January 1994 (as amended 7 August, 25 November and 27 December 1995, 5 February 1997, 10 February and 4 May 1999, 27 May 2000). Tariff rates could be changed by government decisions based on proposals of the Governmental Commission on Customs and Tariff Policy and Trade Remedies Measures, taking also into account Russia's international commitments.

75. It was planned that starting from 1 January 2003 the Law «On Customs Tariff» would be replaced by Chapter 27 of the Tax Code «The Customs Duty and Customs Charges» to be completely in conformity with GATT 1994 and the WTO Agreements. This Chapter would describe the customs valuation procedure in full conformity with the WTO Agreement on Implementation of Article VII of GATT 94.

76. The Resolution of the Government № 1560 of 27 December 1996 had introduced a commodity description and classification system based on HS 96, replacing as from 1 January 1997 the HS 92 previously used. A new commodity description and classification system would enter into force from 1 January 2002 based on HS 2002. The customs tariff consisted of 11,032 tariff lines. The significant majority of tariff items were subject to *ad valorem* tariffs, but 1,515 tariff items were subject to compound (mixed) rates (*ad valorem* and specific duties) and 76 tariff items were subject to specific rates (apples, chocolate, beer and strong alcoholic beverages). The *ad valorem* rates and *ad valorem* equivalents of combined and specific rates multiple of 5 and range from 0 to 30 per cent except for ethyl alcohol and beer.

Tariff structure

Tariff rate (per cent)	Number of tariff items
0	46
5	3,989
10	1,890
15	3,120
20	1,824
25	108
30	5
above 30	50

Tabulation of the trade weighted average customs tariff rates

Year	Percentage
1995	16.0
1996	17.7
1997	13.3
1998	12.8
1999	11.7
2000	11.4
2001(estimated)	10.7

77. The tariff rates were established following the basic criteria that (i) tariffs were the major trade policy measure applied to protect domestic industrial and agriculture production; (ii) tariffs were considered measures of both trade and fiscal policy; (iii) tariffs were a function of economic development, in particular, the technological restructuring of the economy. The most recent version of the Customs Tariff of the Russian Federation was introduced by the Resolution of the Government № 148 of 22 February 2000 (as amended on 27 November 2000) which contained MFN rates of import customs duties for all 11,032 tariff lines. The rates of customs duties applicable to the products originating from the countries with which Russia did not apply MFN treatment were twice higher then MFN rates. The import customs duties applicable to products originating from the countries enjoying the Russia's GSP scheme and being the subject of their traditional exports were levied at the level of 75 per cent of the MFN rates (except for raw sugar where a tariff rate quota mechanism was used).

78. Resolution of the Government No. 886 of 27 November 2000 substantially revised downwards and levelled out the customs duties (in approximately 3,500 tariff positions out of 11,032). As a result of this unification, customs tariffs for nearly all goods categories were grouped under broader headings (raw materials, semi-finished products, finished products, foodstuffs) with duty levels of 5, 10, 15 and 20 per cent, respectively. These changes, which took effect on 1 January 2001, were aimed at liberalisation of imports to Russia of modern technologies and machinery, fighting illegal practices at customs and improving the effectiveness of customs payment collection.

Tariff Quotas, Tariff Exemptions

79. The Law «On Customs Tariff» provided the legal framework for the establishment of tariff rate quotas as a part of free trade agreements and GSP scheme. These tariff quotas could be applied for agricultural and industrial goods. In general, tariff rate quotas allowed import at zero (or reduced) tariffs. The only tariff rate quota now in place (on raw sugar originating from the countries enjoying the Russia's GSP scheme) had been opened under Government Resolutions № 572 (27 July 2000) and № 622 (23 August 2001). TRQ on raw sugar had been allocated under the auction mechanism among the importers. The auction was open for all Russian participants of foreign economic activities. The TRQ auction mechanism was widely used by WTO member countries. According to the WTO Secretariat, in 2000, 20 per cent of all TRQs were distributed through auctions. All Russian participants of foreign economic activities could take part in the auctions. The auction distribution of TRQs was a transparent mechanism based on market principles and did not contradict Articles II, XI and XIII of GATT 1994, as well as Article 4 of the WTO Agreement on Agriculture, as the payments made by the winner of the auction were not a tax, or duty or charge, but the fee for the service of conducting the auction.

80. Exemptions from payment of customs duty could be granted only in accordance with the provisions of the Law "On Customs Tariff". Article 35 of the said Law established the list of goods not subject to customs duties such as goods in transit; printed or recorded materials related to culture, science, education, items imported by foreign diplomatic and consular offices in Russia in accordance with their needs and requirements for official purposes; articles for personal use when travelling abroad; goods destined for disaster relief and humanitarian purposes; industrial and other equipment, related to foreign investment, etc. Exemptions could be also granted under Articles 34, 36 and 37 of the Law (commitments under international agreements) on the basis of tariff rate quotas, tariff preferences, free trade agreement and GSP scheme. Tariff exemptions other than those provided for in the context of a free trade agreement or GSP scheme were applied on a MFN basis (see also Reference paper 4).

Other Duties and Charges

81. Russia does not apply at present duties and charges on imports other than ordinary customs duties and charges for services rendered.

Fees and Charges for Services Rendered

82. Fees for the customs services stipulated in accordance with the Article 110 of the Customs Code, which contained the list of such fees. These fees and charges were related to the approximate cost of the services rendered. Revenues generated by those fees were remitted to the general revenues of the State budget.

Fees and charges for customs services rendered related to importation or exportation

Description of Service Rendered/Purpose of Fees	Rate Applied
Customs charge for customs clearance	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 in temporary storage warehouses, where the goods to be placed before the customs clearance**, ***	0.02 Euro/kg of gross weight for every 24 hrs
- the same in specially designed warehouses	0.03 Euro/kg of gross weight for every 24 hrs
- in customs warehouses for goods placed under the customs warehouse regime	0.04 Euro/kg of gross weight and 3 Euro/vehicle per every 24 hrs
Customs charges for customs escort of goods 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	
- for the distance up to 50 km	20 minimum wages (2,000 Rubles)
- for the distance from 50 to 100 km	30 minimum wages (3,000 Rubles)
- for the distance from100 to 200 km	40 minimum wages (4,000 Rubles)
- for the distance over 200 km	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 State Customs Committee may reduce customs charge for customs clearance to zero
** For the warehouses established by customs authorities only
*** The customs authorities may reduce the charges for storage by half of the maximum

83. According to the draft Customs Code fees and charges levied for customs services related to importation or exportation would be reduced to two types: customs charge for customs clearance and customs charge for customs escort of goods. The fees charged would be calculated not on ad valorem basis but as fixed sums, corresponding to the value of rendered service.

84. The stamp tax applicable for the processing of imports or exports by customs and for other purposes related to trade were established in accordance with the Federal law № 226-FZ of 31 December 1995 “On introducing the amendments and additions to the law of Russian Federation on the state duty” (with amendments and additions of 20 August 1996; 19 July 1997; 21 July 1998;

13 April 1999). The stamp tax was to be collected for the performance of legally valid actions or for the issue of documents by the bodies or by the official persons, authorised for this.

Stamp Tax related to imports and exports

Service rendered/type of Fees and Charges	Rates applied*
For committing notary actions by the notaries of the state notary's offices or by official persons of the executive power bodies, the bodies of local self-government and of the consular institutions authorised for this and also for their compiling the drafts of the documents and issuing the copies and duplicates of the documents, the state duty shall be levied in the following amounts:	
1. for the attestation of agreements the subject of which is subject to evaluation	- 0.5 per cent of the sum for - which the obligation is assumed but at least 30 per cent of the minimal wage
2. for the attestation of agency agreements	- 1.5 per cent of the sum of the agreement but at least 50 per cent of the minimal wage
3. for the certification of other warrants	- 20% of the minimum wage
4. for effecting a captain's protest	- a 15-fold minimum wage
5. for testifying to the correctness of a document's translation from one language into another	- 10% of the minimum wage per 1 page of the document's translation
6. for accepting in deposit of moneys and securities	- 0.5 per cent of accepted monetary sum and the value of securities
7. for testifying to the correctness of the copies of other documents and of the extracts from documents	- 1% of the minimum wage per 1 page
8. for testifying to the authenticity of the signature: - on applications and on other documents (with the exception of the bank cards) - on bank cards (from every person and on every document)	- 5% of the minimum wage - 1 minimum wage
9. for the issue of duplicates of the documents, kept in the cases of the state notary's offices, executive power bodies and consular institutions	- 50% of the minimum wage
10. for the performance of the technical work of preparation of the above documents (print, editing, check of texts)	- two per cent of the minimal wage per page

* The minimum wage is roughly US$3.2.

Consular Fees

85. No special consular fees connected with export or import of goods or services have been instituted. Regular consular fees were collected in accordance with the legislation of the Russian Federation, Consular Articles provisions and the present Tariff approved on 29 June 1993 and 28 March 1994, as well as international treaties of the Russian Federation (see Reference paper 5).

86. Payment collected by consular offices of the Russian Federation for executing abroad the consular acts or issuance of the documents of legal significance to citizens of foreign states, foreign legal entities, persons without citizenship, enterprises with foreign investments, as well as Russian natural

persons or legal entities constantly or temporarily residing or located in foreign countries were remitted to the general revenues of the State budget. Heads of consular offices had the power to decrease the consular fees or not to collect them at all from individual persons in view of their applications, if the reasons specified by them were considered to be valid.

Other fees

87. The port fees used in commercial seaports of the Russian Federation were approved by Ministry of Transport of the Russian Federation on 21 July 1995. The regulated port-charges include: tonnage, beaconnage, canal dues, wharfage, anchor dues, ecological dues, pilotage dues, navigation dues. Port-charges (fees) were collected in commercial seaports of the Russian Federation, irrespective of their form of organisation, legal status and pattern of ownership, from Russian and foreign vessels and floating facilities on the basis of non-discrimination principle (see Reference paper 6).

Import surcharge

88. Article 15 of the Federal Law "On measures to Protect the Economic Interests of the Russian Federation with Respect to Foreign Trade in Goods" of 14 April 1998 № 63-FZ provided for legal framework to safeguard country's balance of payment. This article was in full compliance with the provisions of Article XII of GATT 1994. In accordance with this legislature due to the particular balance of payment difficulties the Resolution of the Government of 17 July 1998 № 791 had introduced a special import surcharge at a rate of 3 per cent *ad valorem* applied to all tariff items. The Resolution of the Government of 27 February 1999 had eliminated the import surcharge from 1 March 1999.

Application of Internal Taxes to Imports

Excise Taxes

89. Excise taxes on certain products had differentiated between imported and domestically-produced goods until January 1997. The Federal Law "On Excise Tax" of 10 January 1997 № 12-FZ unified excise tax rates for imported and domestic products. In pursuance of Chapter 22 of the Tax Code (Federal Law No 117-FZ of 5 August 2000) excise tax rates for imports and those for domestic products were identical and brought into conformity with Article III of GATT 1994. The products subject to excise taxes and respective tax rates per 2002 were enumerated in table below.

Excise taxes

Types of excisable goods	Tax rate (in per cent or Rubles and kopeks per one unit of measurement)
Ethyl alcohol made of all types of raw materials	14 Rubles 11 kopeks per 1 litre of absolute ethyl
Alcohol products of volume fraction of ethyl alcohol over 25 per cent (except for wines) and alcohol containing products	98 Rubles 78 kopeks per 1 litre of absolute ethyl alcohol contained in excisable goods
Alcohol products of volume fraction of ethyl alcohol from 9 to 25 per cent inclusive (except for wines)	72 Rubles 91 kopeks per 1 litre of absolute ethyl alcohol contained in excisable goods
Alcohol products of volume fraction of ethyl alcohol up to 9 per cent inclusive(except for wines)	50 Rubles 60 kopeks per 1 litre of absolute ethyl alcohol contained in excisable goods
Wines (except for natural wines)	41 Rubles 20 kopeks per 1 litre of absolute ethyl alcohol contained in excisable goods
Champagne and sparkling wines	10 Rubles 58 kopeks per 1 litre
Natural wines (except for champagne and sparkling wines)	3 Rubles 52 kopeks per 1 litre
Beer with normative (standard) volume of fraction of ethyl alcohol up 0,5 per cent inclusive	0 Ruble per 1 litre
Beer with normative (standardized) volume of fraction of ethyl alcohol over 0,5 per cent up to 8.6 per cent inclusive	1 Ruble 12 kopeks per 1 litre
Beer with normative (standardized) volume of fraction of ethyl alcohol over 8.6 per cent	3 Rubles 70 kopeks per 1 litre
Pipe tobacco	453 Rubles 60 kopeks per 1 kg
Smoking tobacco, except for tobacco utilized as raw material to produce tobacco articles	183 Rubles 92 kopeks per 1 kg
Cigars	11 Rubles per 20 kopeks per 1 piece
Cigarillos, cigarettes with filter longer than 85 mm	84 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	61 Rubles 60 kopeks per 1,000 pieces
Cigarettes with filter of 1, 2, 3 and 4 classes as per GOST	39 Rubles 20 kopeks per 1,000 pieces
Non-filter cigarettes, mouthpiece cigarettes	11 Rubles 20 kopeks per 1,000 pieces
Jewellery	5 per cent
Petroleum and stable gas condensate	73 Rubles 92 kopeks per 1 ton
Cars with engine power up to 67.5 Kw (90 hp) inclusive	0 Rubles per 0.75 kWh (1 hp)
Cars with engine power up over 67.5 Kw (90 hp) and up to 112.5 Kw (150 hp) inclusive	11 Rubles 20 kopeks 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)	112 Rubles per 0.75 Kwt (1 hp)
Motor gasoline with octane value up to "80" inclusive	1512 Rubles per 1 ton
Motor gasoline with other octane values	2072 Rubles per 1 ton
Diesel fuel	616 Rubles per 1 ton
Oil for diesel and (or) carburettor (injector) engines	1680 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

90. Only two categories of products (natural gas and jewellery) were subject to *ad valorem* rates. The tax base for calculating excise tax for those products was selling price exclusive VAT for domestic products and the sum of their customs value and the payable customs duty exclusive VAT for imported goods.

91. If excisable goods were placed under customs treatment of transit, bonded warehouse, re-export, processing under the customs control, free customs area, free warehouse, destruction and refusal in favour of the State the excise tax was not paid.

92. Excise taxes were applied differently to Russian trade with CIS countries than to trade with non-CIS countries. But as from 1 July 2001, when the Chapter 22 «Excise Tax» of the Tax Code entered into force the excise tax was levied in the uniform manner based on the principle of country of destination.

Value Added Tax

93. 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" of 5 August 2000 No 118-FZ VAT was applied in an uniform manner to all domestic and imported products on the basis of country of destination principle, and that also was the case with CIS countries as from 1 July 2001. The only exception was the bilateral trade with Belarus, where VAT was levied on the principle of country of origin. As for the exportation of crude oil and natural gas the country of destination principle for VAT levied in the course of bilateral trade with CIS country would be realised from year 2004-2005.

94. The Value Added Tax was levied at a single rate of 20 per cent with some exemptions (see Reference paper 7). All these exemptions were applied in non-discriminatory manner both to domestic output and imports of similar products. Also exempt from VAT were the goods placed under the customs treatment of transit customs warehouse, re-export, duty free shop, processing under customs control, free customs zone, free warehouse, destruction and refusal in favour of the State. The tax base for the imposition of VAT included excise taxes, if any. For imported goods customs duties were included in the tax base, too.

Quantitative Import Restrictions, including Prohibitions, Quotas and Licensing System

95. The Russian Federation did not maintain any quantitative import restrictions, prohibitions or quotas (with the temporary ban on importation of ethyl alcohol as the only exception).

96. The prohibitions on the importation of ethyl alcohol had been enforced by the Federal Law № 61-FZ "On Temporary Ban on Ethyl Alcohol Imports" of 31 March 1999 and would be valid until 31 December 2001. This measure was necessary for the enforcement of governmental measures to restrict the quantities of like domestic product for marketing (Article XI: 2 (c) (i) of GATT 1994).

97. The Article 13 of the Federal law "On State Regulation of Production and Turnover of Ethyl Alcohol, Alcoholic and Alcohol-Containing Products" of 22 November 1995 (№ 173-FZ as further amended) restricted imports of distilled spirits to no more than 10 per cent of alcohol sales in Russia. Within this quota, not less than 60 per cent of imports must contain 15 per cent of alcohol or less. The provisions of that Article had never been implemented.

98. The legal framework for the 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.

99. 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 the licensing of imports, making the Russian practices in this field consistent with the relevant provisions of the GATT 1994 and the Agreement on Import Licensing Procedures.

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)
Nuclear 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)

Product group	HS Code	Reason for licensing	GATT Reference
Drugs, substances with psychotropic effects; poisons; materials to produce such substances	Internationally agreed list of UN 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)
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	847 (only cipher equipment) 847330 (only for cipher equipment), 854380900 (only for cipher equipment), 854390900 (only for cipher equipment)	National security	Art. XXI (b) (ii)
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 there of 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 unauthorised 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	
Ethyl alcohol	220710000 220720000 220890910 220890990	Protection of human health or life	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	Protection of human life and health.	Art.XX (c)

Product group	HS Code	Reason for licensing	GATT Reference
Raw sugar	170111	Administration of TRQ	Agreement on Import Licensing Procedures, Articles 1 and 3

List of Goods subject to automatic import licensing

Product group	HS Code	Reason for licensing
Glucose syrup	1702 30 990	Monitoring of trade flows
Tobacco and tobacco items	2401-2403	Monitoring of trade flows

100. The grounds for import licensing were justified by provisions of articles XX and XXI of GATT 1994 and the Agreement on Import Licensing Procedures. In accordance with the said Federal Law licenses are prescribed for the purpose of fulfilling international agreements, ensuring state security, the protection of human, animal and plant health, protection of the environment and maintenance of public morals. The licences were issued by the Ministry for Economic Development and Trade and for weapons and ammunitions – by the Ministry of Defence. The licensing regime applied equally to imports from all countries, including imports from CIS.

101. The purpose for licensing regime was to monitor and to control imports of goods which for various reasons were classified as sensitive for Russia and international community. Russia had 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 tobacco and glucose syrup had been of temporary surveillance character, issued to gather trade data. Those licenses were granted automatically. As for import licensing on strong alcoholic beverages and pharmaceutical products the applicant should have an activity licence.

102. The last Resolution of the Government which enforced import or export licensing had been dated as of December 1998 and after that the decisions on goods subject to import or export licence regime were amended on several occasions over the past three years with a view to minimizing their list. The most recent decision adopted on 20 of July 2001 removed import licenses for white sugar.

103. Licence applications were submitted to no more than two administrative bodies. The amount and type of information to be submitted was stipulated in the Resolution of the Government № 1299 of 31 October 1996: the application itself, copy of import or export contract, copy of the charter of the applicant, copy of the certificate for the state registration approval of the federal agency responsible for the specific sensitive goods (for non-automatic licence only) and activity licence (for strong alcoholic beverages only). The validity of licence was as a rule no more than 12 months but could be

extended upon request of the licence holder. An administrative fee of 3,000 Rubles was charged for each import or export licence. For issuance of preliminary permits for imports of pharmaceutical products the Ministry of Health charged fees of 0.05 per cent of the contract value of the goods. Applications could only be rejected if any of the above-mentioned documents would not be available, or the information submitted by the applicant was false or the importer or exporter did not fulfil the conditions stipulated in international conventions for specific goods. A licence was required to be issued within 25 days after the complete set of documents had been submitted (see also WT/ACC/RUS/10 for further details).

Customs Valuation

104. The basic provisions relating to customs valuation practices in Russia were contained in the Law of the Russian Federation No. 5003-1 of 21 May 1993 "On Customs Tariff" and 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 rules for determining customs value were based on the provisions of the Agreement on Implementation of Article VII of the GATT 1994. All six methods of customs valuation applied in Russia were based on the provisions of Articles 1, 2, 3, 5, 6, 7 and Article 8 of the Agreement on Implementation of Article VII of GATT 1994.

105. Taking into account the provisions of Article 17 of the Agreement on Implementation of Article VII of the GATT 1994, the State Customs Committee (SCC) had been implementing a special technique of customs control to prevent gross under-invoicing of customs value such as the use of false documents stating a clearly understated contractual price in the performance of customs formalities.

106. This technique was based on defining the decision making authority of the customs bodies to check the truth and accuracy of the stated value of products. The relevant customs bodies were vested with certain functions to control customs value and those situations in which such functions should be performed were specified, thus defining the operational procedure of the customs bodies at the various levels (custom-house, regional customs authority, SCC staff). This technique was not meant to replace the applicable Russian legislation on customs valuation in respect of use of the transaction value as a main method of customs valuation. The technique also might enable the customs authorities more effectively corresponded to provisions of Article 13 of the Agreement on Implementation of Article VII of the GATT 1994 as it simplified the procedures and criteria used to decide whether the stated transaction value could have been understated.

107. Actions of SCC could be appealed in accordance with the procedure established by the Customs Code of the Russian Federation. Article 407 required the initial appeal to be filed with the higher customs administration of the Russian Federation, while Article 416 stipulated that should this appeal be turned down, the importer may further appeal to court.

108. Draft Chapter 27 "Customs Duty and Customs Charges" of the Tax Code of the Russian Federation contained requirements ensuring consistency of customs valuation procedures with the provisions of the Agreement on Implementation of Article VII of GATT 1994.

Rules of Origin

109. Russia was following closely the work of the WCO and the WTO regarding the harmonisation for non-preferential rules of origin. In accordance with the provisions of the Federal Law "On Customs Tariff", the principles for determining the country of origin of goods were based on international practices. The procedures for determining the country of origin of goods were established pursuant to the said Law. The goods originated from a country if they were wholly produced in that country or sufficiently processed in accordance with criteria set forth in the said Law. The country of origin of goods might also be understood to mean a group of countries, customs unions, a region or a part of a country, if this was necessary to identify them with a view to determining the origin of goods. The provisions of the Law "On Customs Tariff" concerning the determination of the country of origin of goods, and reflecting the international practices and implementing the recommendations of the Kyoto Convention were incorporated in the draft of the new version of the Customs Code of the Russian Federation.

110. In order to verify the origin of goods from a country, the Russian customs agency might request the presentation of a certificate of origin. This applied, in particular:

- with respect to goods originating from countries which benefit from the National GSP Scheme;
- with respect to goods the import of which from a given country was regulated by quantitative restrictions (quotas) or by other methods for the regulation of foreign economic activities;
- if this was envisaged by international agreements, to which Russia was a party, as well as by Russian legislation on environmental protection, public health, protection for the rights of Russian consumers, public order, state security and other vital interests of Russia; and

- in cases where data about the origin of the goods were absent in the documents submitted for customs clearance or the Russian customs agency had reason to believe that the declared data about the origin of the goods were not trustworthy.

111. The certificate of origin of goods should unequivocally certify that such goods originated from the specified country, and should contain:

- written statement by the consignor that goods met the appropriate criteria of origin;
- written confirmation by the duly authorised agency of the exporting country, which had issued such certificate, that the data indicated therein were true.

112. The certificate of origin of goods should be submitted alongside the customs declaration and other documents presented for customs clearance. Whether doubts existed about the validity of a certificate or the accuracy of the data indicated therein, including the data about the country of origin of goods, the Russian customs agency might approach the organisations that had issued the certificate or other authorities of the country indicated as the country of origin of goods with a request for supplementary or clarifying data. Goods would not be regarded as originating from a given country until a duly executed certificate of origin or requested data were submitted.

113. The Russian customs authorities might refuse to clear goods across the Russian customs border only if it had sufficient grounds to believe that such goods originate from a country from which goods could not be cleared under international agreements to which Russia was a party and/or Russian legislation. Failure to submit a duly executed certificate or data about the origin of goods would not constitute the grounds for refusal to clear such goods across the customs border. Goods, the origin of which had not been surely established, shall be cleared after the payment of customs duties at the non-MFN rates of the Russian Customs Tariff.

114. Determination of origin of goods originating from developing countries eligible for the preferences system maintained by the Russian Federation was governed by the "Rules of origin of goods originating from developing countries for the purposes of tariff preferences under the General Preferences System" incorporated in the Agreement of the CIS states of 12 April 1996 "On Rules of Origin of Goods Originating from Developing Countries for the Purposes of Tariff Preferences under the General Preferences System".

115. As for the rules of origin within free trade agreements the additional criteria of direct purchase were used.

116. In respect of goods originating from CIS countries, Russia adhered to the Rules of origin of goods, approved by the Council of Heads of CIS Governments of 30 November 2000. The above rules were developed pursuant to the international practice of determination of origin.

Other Customs Formalities

117. Other customs formalities in use in the Russian Federation were applied in accordance with the internationally accepted rules and were based on the Kyoto Convention.

Preshipment Inspection

118. The Government did not contract or mandate preshipment inspection.

Anti-Dumping, Countervailing Duties and Safeguard Regimes

119. Federal Law "On Measures to protect the Economic interests of the Russian Federation in Foreign Trade in Goods" № 63-FZ had been adopted on 14 April 1998. The Law established the rules of procedures for the application, conduct of investigation and the imposition of safeguards, anti-dumping and countervailing measures as well as other regulations of exports and imports provided for in the relevant rules of GATT 1994, including BOPs measures. Antidumping, safeguards and countervailing measures could be introduced only following an investigation showing evidence of substantially increased, dumped or subsidised imports, serious or material injury to domestic industry or threat of such injury and causality between these developments. The measures could be in place for a limited period of time necessary to eliminate the injury. The Regulations of the Government of Nos. 183, 184 of 16 February 1999 and 274 of 11 March 1999 established procedures of investigations as well as the procedures for determination of injury.

120. A new draft Federal Law "On Safeguard, Anti-Dumping and Countervailing Measures" had been prepared by the Government in full conformity with the relevant WTO provisions and would be submitted to the State Duma shortly.

EXPORT REGULATIONS

Customs tariffs

121. Export duties ranging from 5 to 50 per cent had been imposed for fiscal purposes mainly and in very rare cases (raw hides and skins, scrap and waste of non-ferrous metals) to ensure essential materials to the domestic industry and to prevent shortages in domestic supply (see Reference paper 8 for further details). Export duties were applied on MFN basis except for the goods exported to the

country-members of the Customs Union. All changes in export duties were published officially. Exported goods were exempt from VAT (except for crude oil and natural gas exported to CIS countries). Russia maintained the same customs fees on exportation as on importation.

Export Restrictions

122. All previous export bans or export quotas had been abolished from 1996. Article 15 of the Federal Law "On State Regulation of Foreign Trade Activity" allowed the imposition of export quotas in exceptional cases to ensure essential national interests of Russia and implementation of international commitments of the Russian Federation. There were no special registration of export contracts or registration or nomination of exporting companies (special exporters). According to the Article 19 of the said Federal Law a ban on exports could be introduced by special Federal Law only.

Export licensing

123. The procedure for export licensing was the same as for import licensing. Some sensitive goods were subject to non-automatic licensing. Limited number of products were subject to automatic licensing for monitoring of trade flows.

Goods subject of non-automatic export 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)
Nuclear 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)

Product group	HS Code	Reason for licensing	GATT Reference
Certain precious metals and stones, objects made there of, alloys semifabricates, ores, concentrates wastes	2616, 2530 90 950,7101 7103, 7106, 7108, 7110, 7118	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	847 (only cipher equipment) 847330 (only for cipher equipment), 854380900 (only for cipher equipment), 854390900 (only for cipher equipment)	National security	Art. XXI (b) (ii)
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 there of 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 unauthorised 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 (b)
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 (b)

Product group	HS Code	Reason for licensing	GATT Reference
Wild animals and wild plants	010119900, 010290900, 010391900, 010392900, 010410900, 010420900, 010600910, 010600990 040700900, 0507, 050800000, 0604, 070951, 070952000, 071080600, 071230000, 080221000, 080222000, 0810-0812, 121220000, 1301, 1302 (except 130219300), 1401-1404, 9601(all-wild animals and wild plants only)	Protection of human, animal or plant life or health	Art. XX (b)
Pharmaceutical raw materials	020610100, 020622100, 020629100, 020630100, 020641100, 020649100, 020680100, 020690100, 0507, 051000000, 1211, 121220000, 1302 130219300, 3001, 3002 (all-pharmaceutical raw materials only)	Protection of human, animal or plant life or health	Art. XX (b)
Rare kinds of fish	0301, 0306, 0307, 051191900 (all-rare kinds of fish alive only)	Protection of human, animal or plant life or health	Art. XX (b)

Goods subject to automatic export licensing

Product group	HS Code	Reason for licensing
Soya beans, rape or colza seeds, sunflower seeds	1201, 1205, 1206	Monitoring of trade flows
Raw hides and skins	4101, 4102, 4103	Monitoring of trade flows

INTERNAL POLICIES AFFECTING FOREIGN TRADE IN GOODS

Industrial subsidy policies

124. By virtue of the current Russian legislation the following types of state support (financial contribution) were available:

- direct transfers of budget funds, including those under federal targeted and investment programs;
- grants and subventions (earmarked grants) to regions;
- budgetary loans, credits and guarantees;
- deferred payments and exemptions in respect of taxes payable.

125. Besides, tariff preferences with respect to the goods and services produced by natural monopolies could be granted by the decisions of federal and regional tariff regulating authorities. At the present time no budget subsidies existed in the Russian Federation which could be considered as export subsidies.

126. Total state support averaged US$12 billion a year, including US$10 billion from the federal budget (hereinafter referred to the average data of 1997-1999). Support was accorded on federal and regional levels.

127. Direct transfers constituted the significant element of the state support to industrial production sector from the federal budget (around 40 per cent). Such state support was concentrated in the coal mining industry and targeted mainly social and restructuring needs. The remaining amount of direct transfers was provided under federal targeted programs, 38 per cent of which going to programs (projects) associated with the development of industrial production.

128. Financial contribution to the regions of the Russian Federation did not directly concern the development of industrial production, but aimed at reducing regional financial disparities. The bulk of transfers were provided on the basis of objective indicators characterising social situation in the regions (82.5 per cent of the total amount). The rest paid for deliveries of supplies of food and fuel to Far North areas (11.5 per cent) and special ("closed") territorial areas.

129. Same forms of the state support to industrial production sector were used by the subjects of the Russian Federation. Such support mostly aimed at the financial rehabilitation of enterprises, resolution of social problems and reimbursement of losses. Less than 6 per cent of the total amount of support was dedicated to the production development.

130. For details on industrial subsidies at all levels, please see WTO documents, submitted by the Russian Federation, WT/ACC/RUS/22 (Corr.1, Add 1, 2 and Add 1 and Rev.1), WT/ACC/RUS/26 (Corr.1), WT/ACC/SPEC/RUS/11 (Add.1) and non-paper of 25 October 2001 (7912).

Technical Barriers to Trade

131. The federal authority for standardization, metrology and certification issues was the State Committee of the Russian Federation for Standardization and Metrology (Gosstandart of Russia). Gosstandart of Russia acted directly or through its subordinate centres for standardization, metrology and certification and state inspectors performing surveillance over state standards and providing uniformity of units of measure. The tasks of development of state standards of the Russian Federation,

participation in the development of international and regional standards, works and services was fulfilled by technical standardization committees.

132. The legal framework for regulation of issues of standardization, metrology and certification was laid down by:

- Laws of the Russian Federation of 10 June 1993, No. 5154-1 "On Standardization" (as amended and supplemented on 27 December 1995), of 27 April 1993, No. 4871-1 "On Provision of Uniformity of Units of Measure", of 10 June 1993, No. 5151-1 "On Certification of Products and Services" (as amended and supplemented on 27 December 1995, 2 March, 31 July 1998), of 7 February 1992, No. 2300-1 "On Protection of Consumer Rights" (as amended and supplemented of 17 December 1999);

- Resolutions of the Government of the Russian Federation of 12 February 1994, No. 100 "On Organization of Works in Standardization, Provision of Uniformity of Units of Measure, Certification of Products and Services"; of 2 February 1998, No. 113 "On Certain Measures to Improve Systems of Ensuring Quality of Products and Services"; of 1 November 1999, No. 1212, "On Development of a Uniform System of Classification and Encoding of Technical and Economic and Social Information"; of 11 January 2000, No. 26, "On Federal System of Cataloguing Products Procured for Federal State Needs"; of 6 July 2001, No. 514 "On Accreditation of Organizations Performing Assessment of Conformity of Products, Production Processes and Services to the Existing Quality and Safety Requirements";

133. Products imported into the territory of the Russian Federation should meet technical, pharmacological, sanitary, veterinary, phytosanitary and ecological standards and requirements determined by the Russian Federation. Imports of products into the territory of the Russian Federation are restricted if:

- they do not meet the legislative requirements;

- they do not have a certificate, marking or a corresponding sign in cases envisaged by federal laws and other legal acts of the Russian Federation

- they are banned for use as harmful consumer goods.

134. The Russian authorities determined the nomenclature of products and services subject to mandatory certification in the Russian Federation. The lists of products subject to mandatory certification were approved by the Government Resolution No. 1013 of 13 August 1997 (as amended on 24 May 2000) "On the Approval of the List of Goods Subject to Mandatory Certification and the List of Works and Services Subject to Mandatory Certification". Gosstandart was in charge of organization and implementation of mandatory certification. In cases envisaged by legislative acts of the Russian Federation with respect to certain types of products, they could be entrusted to other governmental bodies of the Russian Federation. The forms of mandatory certification of products were determined by Gosstandart of Russia or other authorized governmental bodies of the Russian Federation with due regard to established international and foreign practice. The entities involved in mandatory certification were the State Committee for Standards, other governmental bodies of administration of the Russian Federation authorised to carry out jobs dealing with mandatory certifications, certification bodies, test laboratories (centres), producers (suppliers, executors).

135. The list of goods for which safety might be confirmed by declaration of conformity was provided in Resolution of the Russian Federation Government of 7 July 1999, No. 766 "On Approval of the List of Products Whose Conformity May Be Confirmed by Conformity Declaration".

136. Conformity of products subject to mandatory certification could be confirmed by a conformity certificate issued by certification authorities, or a declaration of conformity registered with the certification authority. Such certificate should be submitted to customs authorities together with the cargo customs declaration and was necessary to obtain permission for imports of products to the Russian Federation. The issues of recognizing certificates issued by the supplying country were by reference to interstate agreements and international certification systems to which Russia had acceded.

137. The fees for works in certification of products and services, including certification tests, were payable as provided under the certification rules "Payment for Works Involved in Certification of Products and Services" agreed with the Russian Ministry of Finance and registered with the Ministry of Justice of the Russian Federation.

138. The Appeal Commission of Gosstandart of Russia regulated by its charter approved by Gosstandart of Russia, had been set up for the purpose of considering complaints from participants of certification processes concerning performance of certification authorities, testing laboratories (centres), certification experts and applicants, monitoring, use of conformity mark, issuance, suspension and cancellation of certificates, licenses, and other issues.

139. All works related to accession to WTO TBT and SPS Agreements were governed by the provisions of the Inter-Agency Program of Measures to Ensure Compliance with the Requirements of WTO TBT Agreement and WTO SPS Agreement. A draft interdepartmental program of measures for 2001 – 2002 is currently in the stage of obtaining interdepartmental approvals.

140. Gosstandart of Russia jointly with the Ministry of Economic Development and Trade of the Russian Federation have drafted measures of further harmonization of the existing legislation with the requirements of WTO TBT and SPS Agreements. The draft law implementing these measures provided the following main approaches based on the provisions of the WTO Agreement for technical barriers to trade:

- introduce regulation of issues of safety and quality of products by regulatory legal acts, i.e. technical regulations providing binding specifications in respect of goods and their production processes;

- institute national standards developed, as a rule, pursuant to an international counterpart as voluntary standards;

- conformity confirmation procedures reconciled with international rules and being a constituent part of a technical regulation, would provide the producer with a choice of different confirmation schemes depending on the degree of potential danger of the products;

- legislative support for a single enquiry point for use by customers, including international customers, containing available documents and documents in progress.

- the draft law provided for the general approach to estimation of the cost of work on conformity confirmation. The cost of mandatory conformity confirmation would be based on uniform rules of price fixation for identical or similar products and on the basis of uniform principles reflecting the actual value of incurred expenses.

- It was intended after adoption of this law to analyse the adjoining legislation and if necessary define the ensuing amendments.

141. Additionally, effective 2002, it was proposed to issue federal laws “On Accreditation” and “On Cataloguing”. Simultaneously, draft state standards would be developed based on direct application of the corresponding international standards. Voluntary application of such state standards should ensure compliance with the requirements of technical regulations. As technical regulations for

various types of products were developing and taking effect, all state standards (both existing and newly developed) would be transformed to non-binding instruments by revision, cancellation or adoption of new standards.

142. For the purposes of implementing the provisions of the WTO TBT Agreement requiring harmonization of national standards with their international counterparts, since 1997 and subject to state standardization plans state standards have been developed and implemented, of which over 50 per cent were harmonized with their international counterparts. The overall level of harmonization of domestic standards with international standards was currently equal to 35 per cent. It was intended by the end of 2001 to enact the "Code of Providing Practices of Development, Adoption and Application of Standards" in full.

143. Gosstandart of Russia was working on exclusion of certain types of products from the range of goods subject to mandatory certification; reclassification of certain types of products as allowing conformity confirmation by declaration of conformity granted availability of supplementary documents provided by third parties (quality system certificate, tests protocol of the accredited laboratory).

144. The Single Enquiry Point contemplated under WTO TBT and SPS Agreements had been created to provide the Russian and foreign customers with access to Russian legal provisions, standards, rules and conformity confirmation procedures.

145. The point was located within Gosstandart of Russia at the following address:

Russian Federation
4, Granatniy Pereulok,
103001, Moscow
e-mail : ENPOINT@VNIIKI.RU
website – http://www.ricwto.ru
Tel/Fax: (007 095) 230 25 98

146. In order to implement the requirements of the WTO TBT and SPS Agreements in respect of notification of draft regulatory documents, GOST R 1.13-2001 "State Standardization System of the Russian Federation. The Procedure for Preparation of Notifications of Draft Regulatory Documents" had been passed and would be published in November of 2001. This standard provided framework requirements and procedures for filling in the notification forms in respect of draft regulatory documents produced pursuant to WTO TBT and SPS Agreements. Enactment of this standard would allow full-scale implementation of notification procedures in respect of draft domestic regulatory documents. Since 2000, Gosstandart of Russia published a regular (quarterly) Newsletter (Vestnik) of

the Russian enquiry point, which contained such regulatory documents and reference materials as required by the WTO TBT and SPS Agreements. Draft documents were also published in the Newsletter. In the future it was proposed to also publish notifications of draft domestic documents.

147. In order to provide for transparency of any measures taken, a web-page was created on the Internet by the Ministry of Economic Development and Trade and Gosstandart www.gost.ru, containing plans for standards development, draft laws, other draft regulatory acts, and other required documents pursuant to WTO TBT Agreement. Effective 2002, it was proposed to supplement this page with documents and information in the English language. For more detailed information on such issues see the site of the Enquiry Point.

Sanitary and phytosanitary measures

148. The federal executive authority in charge of ensuring sanitary and epidemiological well-being of the population, was the Ministry of Health of the Russian Federation (State Sanitary and Epidemiological Surveillance Department – "Gossanepidnadzor"). Protection of human health was regulated by the "Fundamentals of Health Legislation of the Russian Federation" of 23 June 1993, No. 5487-1, Federal Law "On Sanitary and Epidemiological Well-Being of the Population" of 30 March 1999, No. 52-FZ (hereinafter the Federal Law SEBN No. 52-FZ), the Regulations of the State Sanitary and Epidemiological Service of the Russian Federation and Regulations on State Sanitary and Epidemiological Standardization approved by Resolution of the Russian Federation Government of 24 July 2000, No. 554, and terms and provisions of other federal laws and resolutions of the Russian Federation Government concerning provision of safety of goods and products for human health and environment (e.g. Federal Laws "On Environmental Protection", "On Consumer Rights Protection", "On Quality and Safety of Food Products").

149. Pursuant to Russian law, all products produced in and imported into the territory of the Russian Federation for distribution to the population and/or use in industrial production, agriculture, civil construction development, in transport requiring direct human involvement, or for private and household use, had to conform to the requirements of sanitary and epidemiological rules, norms and hygienic standards (Articles 13, 15, 16 of Federal Law SEBN No. 52-FZ). Such conformity should be confirmed by a sanitary-epidemiological approval or a registration certificate. A sanitary and epidemiological report was not a confirmation of conformity of products and goods to the requirements of sanitary legislation (this was a responsibility of the producer or supplier), but only a statement that the certain type of product was in conformity with the sanitary legislation, under strict implementation of established requirements and rules during production, transportation, storage and sale of products.

150. Hygienic assessment of imported products had to be performed, as a rule, prior to delivery of products to the territory of the Russian Federation. Imports of products that had not passed prior hygienic assessment procedure had to be subjected to hygienic examination resulting in a hygienic report valid for such particular consignment only.

151. Pursuant to Article 14 of the Federal Law SEBN No. 52-FZ, chemical, biological substances and certain types of products presenting potential human hazards were allowed for production, transportation, procurement, storage, sale and use after their state registration based on the results of research, tests, examination. The below-stated shall be subject to state registration (Article 43):

- not heretofore industrially produced or used chemical, biological substances and preparations thereof (hereinafter "substances"), presenting potential human threat;
- certain types of products presenting potential human threat;
- certain types of products, including food products, for the first time imported to the Russian Federation.

152. State registration of the above substances and types of products was based on:

- assessment of the threat presented by substances and certain types of products for human life and health and environment according to the regulatory documents and assessment guidelines approved by the Ministry of Health of the Russian Federation;
- establishment of hygienic and other limitations on the presence and content of certain elements of such products in the environment;
- development of protective measures, including requirements in respect of disposal and destruction of substances and certain types of products, to prevent damage to human life and health and environment.

153. A registration certificate was issued once for any type of products for the whole period of industrial production in the case of Russian products, or the period of supplies in the case of imported products.

154. State registration of potentially hazardous substances and types of products was performed by the Ministry of Health of the Russian Federation, and in the case of new food products of animal origin by the same in conjunction with the Ministry of Agriculture of the Russian Federation (Resolution of the Russian Federation Government "On State Registration of Certain Types of Products Presenting Potential Threat for Human Life and Health and Certain Types of Products First Imported to the Territory of the Russian Federation" of 4 April 2001, No. 262, "On State Surveillance

and Control in Ensuring Quality and Safety of Food Products" of 21 December 2000, No. 987, "On State Registration of New Food Products, Materials and Items" of 21 December 2000, No. 988). Lists of products subject to state registration are attached to the above Resolutions of the Russian Federation Government. Pursuant to Russian legislation, an applicant had the right to appeal a decision of Gossanepidnadzor following administrative or judicial procedures.

155. The requirements and criteria in respect of safety of products for human health and the environment pursuant to articles 1, 2, 12, 13, 15, 16, 37, 38, 39, 41, 42 of the Federal Law SEBN No. 52-FZ were implemented in state sanitary and epidemiological rules and norms which were regulatory legal acts binding on all citizens, individual entrepreneurs and legal entities.

156. All regulations within the territory of the Russian Federation was performed through federal rules approved and enacted by the federal body of executive power authorized to perform sanitary and epidemiological surveillance (Ministry of Health of the Russian Federation).

157. The State Sanitary and Epidemiological Service of the Russian Federation was a single federal centralized system of agencies and institutions, consisting of a federal executive authority (the Ministry of Health of Russia – Gossanepidnadzor) chaired by the Chief State Sanitary Expert of the Russian Federation – First Deputy Minister of Health of the Russian Federation, centres for state sanitary and epidemiological surveillance in Russian Federation regions, areas, transport (water transport and aircraft) and state research and other institutions.

158. The procedure for sanitary and epidemiological examination of products, types of products and the procedure for issuance of sanitary and epidemiological report regarding conformity (nonconformity) of products to state sanitary and epidemiological rules and norms were as provided by the Regulations on the Procedures of Sanitary and Epidemiological Examination of Products, approved by Order No. 217 of the Ministry of Health of Russia of 20 July 1998. A sanitary and epidemiological report ascertaining conformity of products to the available sanitary rules and hygienic norms and based on the results of a sanitary and epidemiological examination of products by one of the Gossanepidnadzor centres, was valid everywhere in the territory of the Russian Federation.

159. After state registration with the Ministry of Justice of the Russian Federation, all regulatory legal acts of the Ministry of Health of the Russian Federation had to be published in official press organs: the Bulletin of regulatory acts of federal executive authorities of the Administration of the President of the Russian Federation (Presidential Decree No. 763 of 23 May 1996, "On the Procedure for Publication and Taking Effect of Acts of the President of the Russian Federation, the Government of the Russian Federation, and Regulatory Legal Acts of Federal Executive Authorities"), the Bulletin

of regulatory documents and guidelines of Gossanepidnadzor of the Ministry of Health of Russia, and various specialized scientific journals and manuals (Nutrition Care, Health Care at Work Place, Radiation Hygienics, Toxicology Newsletter, etc.). Draft sanitary rules were published in the "Newsletter of the Russian Enquiry Point" and specialized journals. Regulatory documents took effect not earlier than 3 months after their approval, unless a direct threat to human health and life was involved.

160. A Russian TBT and SPS Enquiry Point had been set up and was functioning, supplying all relevant information on SPS issues (see TBT section).

161. The Federal executive authority in charge of veterinary control over imports of animal products was the Ministry of Agriculture (Veterinary Department).

162. The procedures of the State Veterinary Service were regulated by Law of the Russian Federation "On Veterinary Service" of 14 May 1993, No. 4979-1, and other federal laws and regulatory legal acts made pursuant thereto ("Regulations on the State Veterinary Service of the Russian Federation for Protection of the Russian Territory Against Importation of Infectious Animal Diseases from Abroad", approved by Resolution of the Russian Federation Government of 29 October 1992, No. 830; "Regulations on State Veterinary Surveillance in the Russian Federation", approved by Resolution of the Russian Federation Government of 19 June 1994, No. 706; "Regulations on the Procedure for Examination of Low Quality or Hazardous Food Input and Products, Their Use and Destruction", approved by Resolution of the Russian Federation Government of 29 September 1997, No. 1263; "Regulations on Division of Functions of State Veterinary Surveillance in Processing and Storage Enterprises of Animal Products", approved by Chief State Veterinary Inspector of the Russian Federation of 14 October 1994, No. 13-7-2/173; Instruction "On the Procedure for Issuance of Veterinary Accompanying Documents for Cargoes Controlled by the State Veterinary Surveillance Agency", approved by the Ministry of Agriculture of Russian on 12 April 1997, No. 13-7-2/871, Resolution of the Russian Federation Government of 21 December 2000, No. 987 "On State Surveillance and Control in Ensuring Quality and Safety of Food Products").

163. Developments in the legislation on certification, quality and safety of products made it necessary to update the Federal Law "On Veterinary Service". Amendment and supplementation were currently underway. Changes would affect the structure of the State Veterinary Service of Russia and organization of the veterinary and sanitary surveillance.

164. Veterinary requirements in respect of domestic and imported cargoes controlled by the state veterinary services were the same. They were provided by the Law of the Russian Federation "On Veterinary Practice" (Articles14,15,18). The list of controlled cargoes was endorsed by letter of the Veterinary Department of the Ministry of Agriculture of the Russian Federation of 16 May 2000, No. 13-8-01/3009.

165. Imports of cargoes controlled by the State Veterinary Service to the Russian Federation required authorization of the Chief State Veterinary Inspector of Russia.

166. A cargo entering the Russian Federation had to be accompanied with the original veterinary certificates of the exporting country, issued by the state veterinary service of the country of production, guaranteeing compliance with all provisions of the certificate. Russia had agreed forms of veterinary certificates for all types of animal products (goods) with the state veterinary services of most of the exporting countries. Pursuant to the requirements of bilateral agreements for cooperation in veterinary matters, pursuant also to the Code of the International Epizootics Office (IEO) and by virtue of the Law "On Veterinary Issues" pre-shipment inspection was implemented on raw meat products that have not undergone thermal treatment. Such inspection was implemented under supervision of representatives of the Veterinary Department.

167. For those countries that had not agreed veterinary certificates with Russia, imports of cargoes were governed by "Veterinary and sanitary requirements for imports into the Russian Federation of cargoes controlled by the state veterinary service", approved by the Chief State Veterinary Inspector of Russia and letter of the Ministry of Agriculture of 23 December 1999, No. 13-8-01.

168. Imports into Russia of imported controlled cargoes were restricted to designated cross-border checkpoints of the Russian Federation at railway and car stations, at seaports, airports and other specially equipped places open for international communications and having cross-border veterinary checkpoints installed.

169. To be able to bring (as import or transit) controlled cargoes regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the owner of the cargo needed to have, in addition to the above documents a permit from the CITES agency in the exporting country (in Russia the CITES agency is the Ministry of Natural Resources of the Russian Federation).

170. Imports (exports) of pedigree animals required the owner of the animals to have obtained, apart from the permit of the Chief State Veterinary Inspector of Russia and a veterinary certificate, an "extract from the state registry of selection achievements allowed for use, in respect of the imported

plant seeds or pedigree animals" (at import) or "confirmation of compliance with the requirements in respect of protection of patent holder rights in respect of the exported plant seeds or pedigree animals" (at export), signed by the Deputy Minister of Agriculture of the Russian Federation.

171. Imports of veterinary preparations were regulated by "Regulations on Imports into and Exports from the Russian Federation of Medicines and Pharmaceuticals", approved by Resolution of the Russian Federation Government of 25 December 1998, No. 1539.

172. Transit of cargoes required written authorization by the Chief State Veterinary Inspector of the Russian Federation or his/her deputies. Where permits for transit through third countries had to be obtained such formalities were the responsibility of the owner of the cargo. International transit required permits from central state veterinary agencies of importing countries, both destinations of the cargo and transit territories. The itinerary of the cargo also had to be agreed with such agencies.

173. Once passed, all new instruments of veterinary legislation were published in the journal "Veterinary Science and Practice", "Veterinary Newspaper" and the newspaper "Veterinary Consultant" and other special publications.

174. State policies in quarantine of plants were as determined by the Ministry of Agriculture. The actual quarantine was implemented by the State Service of Quarantine of Plants of the Russian Federation of the Ministry of Agriculture of the Russian Federation

175. Regionally, the phytosanitary control was implemented by state inspections for quarantine of plants in the Russian Federation regions. Cross-border phytosanitary control at Russian checkpoints was performed by cross-border plant quarantine points, and local quarantine of plants was performed by district and inter-district plant quarantine points of the regional inspections.

176. Imports of products to the territory of the Russian Federation were subject to phytosanitary control based on import quarantine permits, issued by the State Inspection for Quarantine of Plants of the Russian Federation and its divisions in the Russian Federation regions. Import quarantine permits were issued by reference to Resolution of the Russian Federation Government "On State Service for Quarantine of Plants in the Russian Federation" of 23 April 1992, No. 268, as amended and supplemented by Resolution of the Russian Federation Government No. 1143 of 1 October 1998. The list of products subject to phytosanitary control, indicating codes according to the Goods Nomenclature of the Foreign Economic Activity of the CIS was given in the "Nomenclature of Main Types of Products, Cargoes and Materials (Goods) Subject to Quarantine, for which imports into and exports from the Russian Federation require authorization by the agencies of the State Service for

Quarantine of Plants of the Russian Federation". The latter Nomenclature was approved by the Ministry of Agriculture of the Russian Federation on 19 March 1999, upon agreement with the State Customs Committee of the Russian Federation, and presented a binding document both for the agencies of the State Service for Quarantine of Plants and for the agencies of the State Customs Committee of the Russian Federation.

177. In respect of imports of seeds and planting stock, and large volumes of other products subject to quarantine and intended for several regions, import quarantine permits were issued by Rosgoskarantine, and for imports of fresh vegetables, fruits for use in one region import quarantine permits were issued by the regional inspection of such Russian Federation region.

178. To obtain an import quarantine permit, the consignor needed to apply to the corresponding inspection or Rosgoskarantin. The application had to state the name of product, the country of origin, the country of export, volumes, timeframe for collection, destinations, cross-border checkpoints for imports of such products subject to quarantine (under Resolution of the Russian Federation Government No. 268 of 23 April 1992 “On State Service for Quarantine of Plants in the Russian Federation”).

179. An import quarantine permit indicated *ad hoc* phytosanitary requirements in respect of each consignment of products subject to quarantine and the requirement that each consignment be accompanied with a phytosanitary certificate, confirming conformity of the phytosanitary qualities of the product to the said requirements.

180. A phytosanitary certificate needed to be issued by agencies of the state service in charge of the quarantine of plants in the exporting country.

181. Phytosanitary measures maintained by the Russian Federation met the recommendations of the European and Mediterranean Plant Protection Organization, of which Russia (USSR) was a member since 1957, and an executive member – since 1997.

182. Information on phytosanitary issues could be obtained through the single Russian TBT/SPS enquiry point.

Trade-Related Investment Measures (TRIMs)

183. The Federal law N160FZ “On Foreign Investment in the Russian Federation” adopted on 9 July 1999 did not provide for measures inconsistent with provisions of Art. III or XI of the GATT 1994 and measures which correspond to the illustrative list of TRIMs according to para 2 of Art.2 of

the TRIMs. The Law provided information on all measures affecting foreign investors should be published. The Law provided the Government and local powers the authority to grant foreign investors more favourable regime taking into consideration general economic interest of Russia. As the Law established criteria for such more favourable regime the sub-federal authorities could establish such criteria by themselves. Thus sub-federal powers were empowered to apply any measures provided that those measures were within the competence of sub-federal powers and concerned the sub federal budget. The Law "On production sharing" as of 2001 provided for some obligations of foreign investors which took part in production sharing schemes in Russia to place some proportion of their orders for locally produced goods.

184. The Decree of the President of 5 February 1998 No. 135 "On Additional Measures to Attract Investments for Development of Domestic Car Making" and Resolution of the Government of 23 April 1998 No. 413 "On Additional Measures to Attract Investments for Development of Domestic Car Making" provided for customs and other preferences for those investments in the automotive industry that were higher than established ceiling. Four investment agreements had been signed on the basis of these acts. There was a strong intention not to sign any more new such agreements. The normative acts for cancellation of those decrees and resolutions would be prepared in due course.

185. The Resolution of the Government of 2 August 2001 No. 574 "On Certain Issues of Regulation of Temporary Imports of Foreign Made Aircraft" superseded completely Government Resolution of 7 July 1998, No. 716 "On Additional Measures of State Support for Civil Aviation in Russia".

State-trading enterprises

186. Information had been already provided to the Working Party notifying pursuant to Article XVII of the GATT 1994 (WT/ACC/RUS/18), five State-trading enterprises existing in the Russian Federation. In the view of the Russian Government there were no other enterprises in Russia, either state-owned or privately-owned, which had been granted such exclusive or special rights, or privileges including statutory or constitutional powers in the exercise of which their purchases or sales might influence the level or direction of imports or exports. The list of these was limited to the energy (three STE), and raw natural diamond and platinum (two STE) spheres.

187. The enterprises, which had been granted exclusive or special rights or privileges in the exercise of which they influenced, through their purchase or sales, the level or direction of imports or exports, made their purchases and sales on the basis of commercial considerations.

188. Regarding trade in agricultural products, by virtue of Government Resolution No. 1224 of 26 September 1997 the Federal Agency for Food Market Regulation replaced the Federal Food Corporation with a modified institutional and legal framework. The agency's mission included, *inter alia,* the monitoring of agricultural product markets, promotion of competition, assisting in commodity purchases in the agricultural market and acting as a state customer (procuring organisation) to maintain the current food reserves of the Russian Government. Purchases of products and commodity interventions were to be performed not by the Agency but exclusively by business entities selected through public tenders. Thus the Agency did not impact on export or import trade.

189. Some enterprises (Roshleboproduct and Roscontract) had been granted exclusive and special rights in 1993-1994 in the course of bilateral barter trade with some CIS countries performed under the framework of special intergovernmental agreements for those calendar years. Such exclusive rights of those enterprises expired completely on 31 December 1995 at the moment of expiration of the agreement mentioned above and were never resumed.

190. At the present time Russia did not conduct barter trade with any of the CIS countries.

Free zones, special economic zones

191. Although Russian legislation provided for the establishment of free-trade zones, such zones did not become significant for the Russian Federation's trade regime. Actually only one Special Economic Zone (SEZ) was under operation in Russia which had been created taking into account specific geographical location of the Kaliningrad region. Administration of the Kaliningrad region was governing authority of this SEZ. Under the Federal Law No. 13-FZ of 22 January "On The Special Economic Zone in the Kaliningrad Region" (as amended on 27 December 2000) all goods (excluding goods covered by quantitative restrictions), imported into the Kaliningrad Region were exempted from customs duties and payments (excluding charges).

192. The legislation in force (Federal Law No. 150-FZ of December 27 "On the Federal Budget for 2001", 2000, as amended on 24 March, 8 August 2001) abrogated the excise and VAT exemptions for imports of excisable goods under free customs zone regime of the territory of the Kaliningrad SEZ in 2001.

193. However, if such goods were later exported to other regions of the Russian Federation, customs import duties were payable in full, with the exception of goods processed or deemed to have been processed in the Kaliningrad Region.

194. Pursuant to Federal Law "On Special Economic Zone in Kaliningrad Region", a product was deemed manufactured in the Special Economic Zone provided the value added by processing amounted to no less than 30 per cent, or no less than 15 per cent in electronics and sophisticated home appliances, and its processing resulted in a change of the HS code of such product according to the customs classification. The procedure for determining a product as originating from a special economic zone was approved by joint resolution of the Administration of Kaliningrad Region and the State Customs Committee of Russia of 31 December 1998, No. 296-r/01-14/1365, "On Approval of the Procedure for Determination of Goods as Originating from the Special Economic Zone of Kaliningrad Region", registered by the Ministry of Justice as of 9 July 1999, under No. 1892.

195. There was legislation which provided for the establishment of SEZ in the Magadan region and in Nakhodka, but those zones were not yet active.

196. Free Economic Area "Nakhodka" was formed in October 1990, as Russia's first free economic area. Its free economic regime was regulated by Resolution of the RSFSR Supreme Council of 24 October 1990 "On Creation of a Free Economic Zone Centred on the Town of Nakhodka in Primorsky Krai", and by Resolution of the Government of the Russian Federation No. 1033 of 8 September 1994, "On Certain Measures of Development of the Free Economic Zone of Nakhodka". Exports and imports of goods of Free Economic Area "Nakhodka" were regulated by the ordinary customs regime.

197. Magadan Special Economic Zone was created under Federal Law of 31 May 1999, No. 104-FZ "On the Special Economic Zone in Magadan Region", and Law of Magadan Region of 5 July 1999, No. 80-OZ, "On Changing the Administrative and Territorial Structure of Magadan Region". The procedure for determining goods as originating from the Special Economic Zone in Magadan Region was provided by Order No. 829 of the State Customs Committee of the Russian Federation of 30 November 1999, and Guidelines for Determining Goods as Originating from the Special Economic Zone in Magadan Region contained in joint Letter of the State Customs Committee and the Administration of Magadan Region of 25 April 2000, No. 01-11/10593.

198. The territory of Magadan Region was a free customs zone, which meant that foreign goods were imported to the territory of the Special Economic Zone free of customs duties and taxes. Foreign goods exported from the territory of Magadan Region within or outside of the customs territory of the Russian Federation were liable to customs duties in full amount.

199. Foreign goods undergoing a certain amount of processing qualifying for the definition of sufficient processing, were deemed to be Russian goods and were not liable to import customs duties

and other taxes upon such goods entering the rest of the customs territory of the Russian Federation. The criteria of sufficient processing of goods in the Special Economic Zone were as follows: change of commodity position (HS code), implementation of certain production and technological operations sufficient, or insufficient, for the goods to be deemed to originate from the Special Economic Zone; change of cost of goods, provided the value added by processing amounted to no less than 30 per cent of the goods (no less than 15 per cent for electronics or sophisticated home appliances). Tax and customs benefits were to be maintained until 31 December 2014 – the last effective date of the Law "On the Special Economic Zone of Magadan Region".

Transit

200. At present, transit of commodities through the territory of the Russian Federation was free from the levy of fees, customs duties, VAT and excise tax. The Russian Federation granted freedom of transit through its territory as prescribed by Article V of the GATT 1994 as well as on the basis of international treaties it was party to. The only charges levied were those for transportation commensurate with administrative expenses or with the cost of services rendered.

Agricultural policies

201. The key long-term tasks of the Russian agricultural sector were an effective and competitive agro-industrial production and food security of the country. These tasks required a comprehensive program of measures, both short-term and long-term.

202. Pursuant to the "Priority Trends of Agri-Food Policy of the Government of the Russian Federation for 2001 – 2010", approved by the meeting of the Government on 27 July 2000, the Russian agricultural sector first and foremost needed to address the problems that have accumulated over the years preceding the reform and during the reform, notably the sectoral imbalance of prices and revenues, which was a major adverse factor in agrarian production, low profitability, and the development of material base.

Description of state measures pertaining to "amber box" measures

Restructuring of debts of agricultural companies

203. Restructuring was regulated by Resolution of the Government of the Russian Federation of 3 September 1999, No. 1002 "On the Procedure and Timeframe for Restructuring of Accounts Payable of Legal Entities in Respect of Taxes and Levies, and Arrears on Penalties and Fines Outstanding to the Federal Budget". In addition, the Federal Budget for 2001 provided, in Article 130,

for restructuring of overdue debts (principal, interest, penalties and fines) on federal taxes and levies, and insurance premiums payable to state non-budgetary funds. The restructuring schedule presupposed full write-off of penalties and fines. The procedure and terms of restructuring in 2001 were as provided by Resolution of the Russian Federation Government of 8 June 2001, No. 458.

204. Soft lending was currently provided through compensation from the Federal Budget of the difference in interest rates on loans obtained from lending institutions, and through budgetary allocations towards formation of the leasing fund. Appropriations were made in the 2001 Budget to finance these purposes. The system of soft seasonal short-term lending was not tied to production of any particular goods. The same concerns leasing operations. The latter were in the form of mid-term lending.

205. As most agricultural producers had overdue accounts payable, a common scheme was to credit agricultural companies through the mediation of food and processing industries. Otherwise commercial banks would be unable to provide loans to finance seasonal works. Subsidies were provided to a borrower monthly in the amount of 2/3 of the refinancing rate of the Central Bank of the Russian Federation maintained at the date of the loan, on condition of payment by such borrower of interest accrued under loan agreements (see Resolution of Government of the Russian Federation of 7 March 2001, No. 192 "On Approval of the Procedure of Compensation in 2001 from the Federal Budget of the Difference in Interest Rates on Loans Obtained from Russian Lending Institutions by Agricultural Producers, Enterprises, Organizations of Agro-Industrial Sector").

206. The state leasing fund was formed with budgetary allocations. Leasing agreements for machinery and equipment, and breeding horned cattle were made for a period of 2 to 5 years, and for certain types of breeding animals for a period of 2 years. The volume and description of products delivered under leasing agreements were determined based on the submissions of executive authorities of the Russian Federation regions. Enterprises and farms paid to leasing companies a compensation for use of the leased property in the amount of 3 per cent per annum of the outstanding value of the leased property – for machinery, and 0.5 per cent per annum for breeding animals. The amount of original payment was 10 to 30 per cent of the value of product subject to its nature and price (the distributions of leasing fund in the current year have not yet been determined).

Food and agricultural products market regulation

207. The goal of establishing a system of food market regulation was to prevent wide and sharp fluctuations of prices. Such fluctuations were typical of Russia due to sharp fluctuations in weather

conditions. Besides, a regulation system allowed building reserves and avoiding a food deficit on the market.

208. The major instruments of regulation of food markets were commodity and procurement interventions. They were provided by Federal Law No. 100-FZ of 14 July 1997, and Resolution No. 580 of the Government of the Russian Federation of 3 August 2001 "On Approval of Rules of State Procurement and Commodity Interventions for Regulation of the Market of Agricultural Products, Input and Food". Procurement interventions were performed when market prices dropped below the minimum level or where producers were unable to sell their products due to falling demand. Commodity interventions were made in a situation of deficit in the products market or when market prices soared beyond the fluctuation cap.

209. Input subsidies took the form of compensations to purchase mineral fertilisers and electric power benefits for agricultural operating companies supplying water for irrigation and other aquicultural purposes and for other needs of agricultural production companies (Resolution by the Government of the Russian Federation of 15 February 2001, No. 115)

210. Input subsidies were used as a mid-term measure which secured a hurdle level of production efficiency and food security in a situation of continued transformation of the market and price distortions. As agriculture adjusted to new economic conditions and agricultural production became more profitable the requirement of input subsidies would subside.

211. Investment Subsidies were implemented through specific programs (development of hop plant industry, flax industry, baby food industry) or through allocations of budgetary funds for capital investments in reproduction of fixed assets.

212. The allocations were made by partial compensation of costs of investment projects, or by direct capital investments, including under specific-purpose programs.

213. Grants to animal and plant production were calculated per unit of product. In 2001, pursuant to Government Resolution No. 272 of 6 April 2001, "On Approval of the Procedure for Provision of Subsidies for State Support of Certain Sectors of Agricultural Production in 2001", subsidies were provided to finance the following costs: support for reindeer rearing, animal breeding, domestic sheep-breeding, elite seed-growing, flax and hemp production. Subsidies were calculated and advanced based on the actual subsidisable costs incurred in the accounting period of the current financial year.

Measures attributable to "green box"[3]

214. General services (funding of budget-financed institutions; funding of research and educational programs; capital investments in melioration and aquiculture except maintenance costs; operating costs, financial support for creation of a market database) are financed from the Federal Budget, under the following sections: "Agriculture and Fishery", "Public Education", "Management", "Industry, Power Generation, and Construction", "Financial Assistance to Budgets of Other Levels", etc. and with funds allocated to federal special-purpose programs to the extent of research expenses.

215. Formation of state reserves to provide food security (the costs of creation of a federal and regional food reserves) presupposed food supplies to the Far North Areas and territories of equivalent status and adequate provisions according to requirements of the military and equivalent categories of consumers. Food reserves were procured at market prices.

216. Support of the level of income of producers, other than production support presupposed support for development of rural territories, maintenance of social and engineering infrastructure (development of rural health care centres, public education, power supply, gas supply, road construction in rural areas, etc. under federal and regional special-purpose programs), and budgetary grants to regions to finance the housing and utilities costs. Draft federal program "Social Development of Rural Areas Through 2010" was produced to further the development of social rural infrastructure, and was due to be enacted soon.

Financial participation of the Government of the Russian Federation in crop insurance programs

217. The terms of the government's financial participation in agricultural crop insurance programs were provided under Law No. 100-FZ "On State Regulation of Agro-Industrial Production" and Resolution of the Russian Federation Government of 27 November 1998, No. 1399 "On State Regulation of Insurance in Agro-Industrial Production". State support involved partial subsidising of insurance premiums (the legislation in force provided for 50 per cent subsidising) based on the insurance cost determined annually by reference to the size of areas under crops, the yield pattern in the preceding 5 years, and the estimated market price of the agricultural crops to be produced in the applicable year. Losses of agricultural crops in such year against the average yield in the previous 5 years were subject to compensation in the amount of 70 per cent of the said losses (in money terms).

[3] A more detailed account of "green box" measures will soon be submitted to the WTO Secretariat.

218. Assistance in the event of natural calamities involved financial assistance (partial compensation) to farms affected by natural calamities and was provided out of the reserve fund of the Government of the Russian Federation pursuant to requests from executive authorities substantiating the amount of financial assistance so requested (under Article 24 of the Federal Law No. 68-FZ of 21 December 1994 "On Protection of Population and Territory From Emergencies of Natural and/or Human Inflicted Origin", and Resolution No. 810 of the Russian Federation Government of 26 October 2000) and partial compensation of the costs of transportation of fodder to farms affected by natural calamities based on the records of the registry of waybills confirming transportation expenses actually incurred (in 2001 the program was not maintained).

219. Financing of environmental protection programs presupposed grants to veterinary and sanitary salvage plants for collection and processing of biological wastes at a fixed rate per ton of utility wastes (in accordance with Resolution No. 272 of the Government of the Russian Federation of 6 April 2001 "On Approval of the Procedure for Provision in 2001 of Subsidies from the Federal Budget for State Support of Certain Sectors of Agricultural Production"); and measures to rehabilitate radiation-contaminated agricultural lands, provision of ecologically clean products, reproduction and prevention of deterioration of natural environment, ecologically-friendly functioning of agro-industrial sector in Russia under various federal and regional programs ("Protection of the Population of the Russian Federation from Consequential Impact of Chernobyl Catastrophe", "Chernobyl Children", "Improvement of Fertility of Russian Soils", "Wastes", "Ecological Rehabilitation of Orenburg Oblast and Improved Health Care to Its Population", "Comprehensive Federal Program to Protect the Lake Baikal and Provide for Rational Use of Its Basin", etc.)

220. Funding of the restructuring program presupposed support for individual farms in the form of provision of financial allowances for relocation of individuals to rural areas for organisation of farms, soft lending, tax benefits, publication of manuals, etc. This type of support was provided under federal law "On Federal Budget for 2001" pursuant to article "Current Costs of Maintenance of Political Subdivisions" in the form of subsidies provided by Resolution of Government of the Russian Federation of 6 April 2001, No. 272.

221. Funding of regional assistance programs presupposed capital investments in Far North Areas and equivalent territories for development of prevalent regional sectors and trades, construction of new and expansion and reconstruction of existing enterprises and facilities.

Export Subsidies

222. Taking into account such factors as the geography of agricultural production in Russia, its vast territory, actual state of development of transportation system and infrastructures supporting exports of agricultural products, use of export subsidies by some of Russia's major partners and also the prevailing conditions for competition on world agricultural markets, the Government came to a conclusion that export subsidies consistent with the Agreement on Agriculture could be used. Therefore, Russia intended to reserve its right to use export subsidies subject to: (a) agreed reductions with WTO members over a fixed period of time; and (b) possible results of the on-going new WTO negotiations on agriculture on export subsidies.

TRADE-RELATED INTELLECTUAL PROPERTY REGIME

General

223. The national system of protection of intellectual property rights corresponded to the basic international standards in this field including, *inter alia,* the provisions of the TRIPS Agreement. 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 provided *erga omnes* the guaranteed freedom of literary, artistic, scientific, technical and other types of creative activity, and teaching; and stipulated that the intellectual property shall be protected by law. The whole system of the Russian legislation in force contributed to the realisation of this constitutional right. A vital element of the said system laid in a number of international agreements to which the Russian Federation was a party.

224. The Russian Federation extended national treatment to the legal entities and individuals of those countries which were parties to agreements mandating such treatment (most notably: the Paris Convention for the Protection of Industrial Property, the Universal Copyright Convention, and the Bern Convention for the Protection of Literary and Artistic Works) both directly pursuant to such covenants (Clause 4 of Article 15 of the Constitution of the Russian Federation provided for the direct application and prevalence of international agreements) and in accordance with relevant provisions of legislative acts of the Russian Federation (in particular, Articles 36 and 37 of the Patent Law of the Russian Federation No. 3517-1 FZ of 23 September 1992, Articles 47 and 48 of the Russian Federation Law "On Trademarks, Service Marks, and Appellations of Origin" No. 3520-FZ of 23 September 1992, Article 3, Article 5:1 and Article 35:4 of the Russian Federation Law "On Copyrights and Related Rights" No.5351-1 FZ of 9.July 1993, Article 7 of the Russian Federation Law "On the Legal Protection of Computer Programs and Databases" No.3523-1 of

23 September 1992, Articles 13 and 14 of the Russian Federation Law "On the Legal Protection of Layout Designs of Integrated Circuits" No.3526-1 23 September 1992).

225. The application of most-favoured-nation treatment (with exceptions regarding advantages granted by Russia in accordance with certain agreements including agreements with CIS countries) on intellectual property was stipulated in the agreements that the Russian Federation had with Switzerland and the European Union. For more information on TRIPS regime in Russia see WT/ACC/RUS/41, WT/ACC/RUS/29, WT/ACC/RUS/29 Rev.1 and WT/ACC/RUS/45.

Copyright and related rights

226. In general, the provisions of the Russian legislation on copyright (including the ones on the protection of computer programs and databases) were in conformity with the provisions of the Bern Convention for the Protection of Literary and Artistic Works (including Article 6 *bis*) and the relevant provisions of the TRIPS Agreement. At the same time, according to the declaration made by the Government of the Russian Federation when joining the Bern Convention, the provisions of the latter were not applied to literary and artistic works which were of public domain when the Convention came into force for the Russian Federation. In accordance with Article 28 of the Russian Federation Law "On Copyright and Related Rights" No. 3531-1 FZ of 9 July 1993 works for which the term of copyright expired, as well as works to which copyright protection had never been extended within the Russian Federation were of public domain. New amendments to this Law would bring the provisions relating to retroactive protection into conformity with the respective requirements of the Bern Convention and TRIPS Agreement.

Trademarks, including service marks

227. In general, the provisions of the Russian legislation on the protection of trademarks and service marks were in conformity with the provisions of the Paris Convention for the Protection of Industrial Property and the relevant provisions of the TRIPS Agreement with the exception of the TRIPS provisions on additional protection of well-known marks in respect of non-homogeneous goods. These provisions would be taken into account when amendments to the Russian Federation Law "On Trademarks, Service Marks and Appellations of Origin" would be approved.

Geographical indications, including appellations of origin

228. Prior to 1992 geographical indications in Russia were protected mostly by considering any false geographical indications as a form of unfair competition or a violation of consumer rights (this was done by antitrust agencies or courts respectively).

229. In addition to this since 1992 one highly important category of geographical indications - appellations of origin - was accorded special protection through their state registration in accordance with the procedure set forth in the Russian Federation Law "On Trademarks, Service Marks and Appellations of Origin".

230. In general, the provisions in accordance to which geographical indications were accorded protection were in conformity with the provisions of the Paris Convention for the Protection of Industrial Property and the relevant provisions of the TRIPS Agreement. New amendments to the Law on Trademarks would be taken into account the provisions of the TRIPS Agreement on additional protection of geographical indications for wines and spirits were extended only for the appellations of origin which were registered in accordance with the established procedure.

Inventions and Industrial designs

231. In general, the provisions of the Patent Law of the Russian Federation on the protection of inventions and industrial designs were in conformity with the Paris Convention and the relevant provisions of the TRIPS Agreement. The draft law on amendments to the Patent Law of the Russian Federation took into account the provisions of the TRIPS Agreement on the use of inventions without patent holder's authorisation ("compulsory licensing").

Plant variety and animal breed protection (selection attainments)

232. Plant varieties and animal breeds were protected in accordance with the Russian Federation Law "On Selection Attainments" No. 5605-1 FZ of 6 August 1993. The provisions of this Law were in conformity with the TRIPS Agreement and the UPOV Convention. The Russian Federation became a member of the UPOV Convention in 1998.

Layout designs of integrated circuits

233. Layout designs of integrated circuits were protected in accordance with the Russian Federation Law "On Legal Protection of Layout Designs of Integrated Circuits". In general, the provisions of this Law were in conformity with the provisions of the Treaty on Intellectual Property in Respect of Integrated Circuits (Washington Treaty), notwithstanding the fact that Russia was not a party to this Treaty. Additionally (in respect of the Washington Treaty) the relevant requirements of the TRIPS Agreement had been taken into account in a draft law on amendments to the Law on layout designs which was to be submitted to the legislative authorities.

Requirements on undisclosed information, including trade secrets and test data

234. Protection of undisclosed information, as in Section 7 of the TRIPS Agreement, was ensured in the Russian legislation by virtue of Article 139 of the Civil Code. In particular, Article 139 stipulated the liability of officials who illegally obtained information which constituted official or commercial secrets. The obtaining, use, or disclosure of scientific, technical, production, or commercial information, including commercial secrets, without the owner's consent were not permitted by virtue of Article 10 of the Federal Law No. 948-1 of 23 March 1991 "On Competition and Restriction of Monopoly Activity on Commodity Markets".

Enforcement

Criminal measures

235. The representative of Russia informed that within the Main Economic Crime Division of the Ministry of Interior (in 89 regions there are regional departments of economic crimes) since 1999 there has been a special department dealing with intellectual property crimes.

236. As for the criminal sanctions, the Criminal Code included three articles specifically dealing with intellectual property: Article 146 (Copyright and Related Rights Violations), Article 147 (Patents Violations) and Article 180 (Trademark Violations). While copyright violations were punishable by fines and imprisonment. For the other intellectual property violations no imprisonment was provided. In the meantime, the State Duma approved, in the first reading, the draft amendment to Article 180 (Trademark Violations) introducing a new paragraph dealing with organised crime, initial conspiracy and providing an imprisonment.

237. Since Intellectual property crimes were not considered to be "grave" crimes, enforcement bodies used other articles of the Criminal Code when appropriate such as smuggling, consumer fraud, etc. In 1997, there were 720 intellectual property violation cases, in 1998 – 950, in 1999 – 1300, in 2000 – 2000 including 1117 cases on copyright and related rights violations. In 1999, 125 illegal manufacturing facilities were closed down, 30 million illegal units were confiscated, in 2000 – 334 manufacturing facilities were closed down and 50 million units were confiscated.

238. As for confiscating illegal goods, materials and equipment used for their manufacturing, Articles 146, 147 and 180 of the Criminal Code did not directly stipulate it. It was a normal practice when these goods and machinery were confiscated as material evidence. As for the illegal copies, the right holder could request to take them; as for the machinery it had to be decided by the court. In practice, however, the infringer could be the owner of illegal copies. In such cases, the owner was

responsible for properly reflecting these goods in his balance in accordance with accounting rules. When the illegal goods wee not reflected in the balance they could be confiscated by the court as property, which had no owner. Such a case had to be initiated by the financial control bodies**.**

239. Concerning the High Arbitration Court's practice, the Court issued a decision on confiscation and destruction in cases where the right holder did not request the goods to be transferred to him. If the Court did not decide on confiscation of illegal goods in civil proceedings this decision could be appealed against by the right holder.

Criminal procedure

240. In accordance with the legislation in force the enforcement bodies had the responsibility for discovering and identifying criminal violations. Since intellectual property violations were within the category of private accusation criminal procedure could not be initiated without the complaint by the right holder.

241. As for the time limits for investigation in accordance with the Criminal Procedure Code it was initially 10 days and 30 days for the final decision in complex cases.

242. Normally, the statement that the goods were counterfeit was made by the right holder. Official state expertise may be done by the Centre for Expertise of the Ministry of Interior. Rospatent dealt with examination in the trademark cases. The decision on expertise was made by the investigator, prosecutor or the court. The expertise initiated by the law enforcement bodies was free of charge.

Administrative measures

243. Administrative sanctions under the Code of Administrative Offences in force were applied only to the copyright violations (Article 150:4). Administrative sanctions were the fines defined by the court between the minimum and maximum established in the Law. Although the fines were not high administrative liability was generally a more simple and efficient form for smaller scale copyright violations. Most importantly, Article 150-4 directly provided for the confiscation of illegal copies, material and equipment. Confiscated articles could be transferred to the right holder on his request or destroyed.

244. The criterion, which defined administrative liability as opposed to criminal liability at the moment was "significant damage". In addition, criminal measures were aimed against the most serious crimes, which represented danger to the public.

245. As far as the activities of the Ministry of Antimonopoly Policy and Entrepreneurship Support were concerned, the sanctions were available under the antimonopoly legislation. Any business entity whose rights of intellectual property were violated by another business entity could apply to the Ministry to start the proceedings against the offender. The Ministry could issue a decision imposing fines or demanding certain actions or prohibiting infringing actions. The procedure normally took between 1 and 2 months, in complicated cases - between 3 and 6 months.

Border measures

246. Article 10 of the Customs Code included intellectual property protection within the scope of the Customs' responsibility. Since 1998, the State Customs Committee accepted right holders' applications for the Customs' measures. The following documents had to be presented: confirmation of the intellectual property rights, power of attorney (when necessary) and information on the violation (description of goods) as well as any additional information available from the right holder.

247. At present, the Customs Code did not allow the Customs bodies to act fully in accordance with the TRIPS standards in terms of supplying the right holder as a third party with information and of providing the right holder with an opportunity to inspect detained goods and take samples. The draft new Customs Code included a new section dealing with intellectual property protection, which effectively addressed these problems as well. At the CIS level there was the draft Treaty on importation and exportation of goods approved by the CIS Economic Council.

248. When goods were detained the Customs had 10 working days to inspect all goods. Particular attention was paid to the goods indicated by the right holder. The term could be extended for another 20 working days or 31 calendar days. Within this period if there were grounds to consider intellectual property violations the Customs transferred materials on intellectual property violation to the Police and prosecutors. The right holder could bring a civil law case to the court.

249. As for the possibility to obtain from the Customs bodies information about the infringing company, its history, activity, etc., after the new Customs Code would be enacted such information would be available in relation of the importers and imported goods. Concerning backdated information it would be possible from the date of registration of the right holder's application with the Customs or from any date based on the court order.

Civil law remedies and procedure

250. Referring to remedies available under the Civil Code and intellectual property the list thereof was as follows: confirmation of rights, prohibition of actions violating rights, imposing fines,

compensation of damages caused to the right holder, compensation of income received by the infringer and statutory compensation. The last two measures were available only for copyright.

251. Regarding claims for damages and assessment of damages, in civil law cases the general principle of full recovery of damages existed. The amount of damage was calculated in accordance with the general norms of the Civil Code based on the prices of corresponding legitimate goods taking into account actual damage and forgone profit of the right holder. As for the statutory compensation it was initially defined by the plaintiff who needs to prove the fact of damage caused but without calculating the amount. Then it was further assessed by the court based on the nature of infringement, income received by the infringer, etc. The court finally decided on the amount of compensation.

252. Regarding provisional measures under Article 75 of the Code of Arbitration Procedure the court could issue an order for preliminary injunction based on the plaintiff's petition. Such measures should be aimed at securing the claim. Provisional measures included: prohibition of infringing actions, arrest of property including back accounts, seizure of documents and other evidence The judge handling the case should make a decision the next day after the petition is filed without the representatives of the parties. Under the current legislation in force any petition for provisional measures can be filed after the civil procedure is initiated. However, the draft amendments to the Code of Arbitration Procedure proposed to allow provisional measures to be obtained before filing the claim.

POLICIES AFFECTING TRADE IN SERVICES

253. Russian market for services based on supply and demand conditions began to develop only in the first part of the 1990s, following the domestic process of market reforms and privatisation, as well as liberalisation of the whole system of the Russian Federation's economic relations. The development of services market had led to a substantial increase of its share in national GNP, which reached about 55 per cent in 2000 (28 per cent in 1991). Although Russia's share in world trade in services was not yet quite important, the contribution of services to the country's total trade was not negligible (in 2000 Russia's share of trade in services in the world's trade in services comprised over 1 per cent). The balance of foreign trade in services, however, was traditionally negative for the Russian Federation, with exports amounting to US$9,632 million and imports amounting to US$17,412 million in 2000 (data based on Balance of Payments).

254. The reform of the Russian economy during the last decade called into being the new services sectors as well as contributed to the development of existing ones. At the same time, be they old or new, services providers in some sectors operated within insufficient regulatory and institutional

framework and suffered from unstable market structure. As "infant industries", those services sectors were liable to positive and negative economic and social variations that could have serious impact on the economy as a whole. Should negative variations prevail, the Russian Federation needed to keep the possibility to have recourse to certain temporary measures aimed at the maintenance of normal competitive environment, balance and integrity of markets, social stability and employment. The implication of these measures was limited in time until the factors triggering their use would be removed. Should multilateral disciplines addressing the relevant issues be agreed, the Russian Federation was willing to put the mentioned measures in compliance with those disciplines.

255. The economic developments in services were supported by the legislative process. Many laws and regulations, necessary to establish a legal framework for provision of services in general (such as Civil Code or Law on foreign investments) or in specific sectors were adopted. However, the dynamism of services markets was still not adequately reflected by the regulatory system. The reasons of the Russian banking crisis in August 1998 were, in particular, associated with inadequate approaches to and lack of effective prudential arrangements in the established banking activities, following the evolved extreme dependence of the internal financial system from the situation in short-term foreign capital markets. In addition, development of regulatory systems in some services sectors depended on the adoption in its final shape of politically sensitive basic laws on the status of land for the purpose of ownership and commercial transactions. For the purposes of creating a favourable economic and investment climate, including in services sphere, the Russian Federation had embarked on a series of measures to reduce red tape restraints on economy, involving streamlining of the procedures of company registrations, downsizing of the list of types of activities subject to licensing and reduction of frequency of inspections of enterprises. It could be expected that regulatory framework of the Russian Federation governing the services sector would, at the same time, be subject to frequent adaptations and improvement in light of experience and of progress made in building national capacity to supply services on a competitive basis. That did not contradict GATS provisions recognizing the right of Members to regulate, and to introduce new regulations, on supply of services within their territories in order to meet national policy objectives.

256. According to legal framework some kinds of services were subject to licensing. For the purpose of transparency the detailed information about the particularities of licensing of certain types of activity is submitted in Reference Paper 12.

257. Russian authorities were aware of ongoing negotiations within the WTO with a view to developing the necessary multilateral disciplines to avoid trade distortive effects of subsidies and addressing the appropriateness of countervailing procedures. Taking into account the fact that the

Russian Federation did not take part in the negotiations as a full-fledged participant and thus was not able to secure adequately its particular interests in this respect, the Russian Federation had to reserve the right, pending the results of these negotiations, to maintain subsidies measures according to the national legislation and practice, and upon completion of negotiations to adjust its specific commitments on services in a manner not contradicting the above-mentioned results.

258. The Russian Federation exercised its sovereign rights over subsoil and mineral resources, underground resources within the territory of the Russian Federation, including subsoil domain and mineral resources contained therein, energy and other resources. Subsoil areas could not be subject to purchase, sale, gift, inheritance, deposit, pledge or any other form of alienation. In this context, the Russian Federation was developing a market environment in this field with a purpose of creating favourable conditions for enterprise operation, capital and technology inflow and encouraging access to the subsoil and natural resources on the basis of conclusion of production sharing and concession agreements.

259. In respect of most favoured nation commitments, the Russian Federation had a limited number of bilateral agreements related to debt settlements and technical assistance, measures resulting from the agreements on legal assistance; measures which defined the responsibility for the preservation of suitability of aircraft for carrying out the flights (defined by bilateral agreements); agreements on terms of activity on the territory of Russia of some international banking institutions (North Investment Bank, Black Sea Bank of Trade and Development, Interstate Bank), which contained some preferential provisions resulting from specific international status of these institutions within the context of the agreements. There was an understanding of the Russian Federation that WTO provisions should not be construed as preventing Russia to implement the mentioned bilateral agreements for the period of their validity.

260. At the beginning of 2001 the modified draft of the Schedule of Specific Commitments of the Russian Federation in Services was submitted to the Secretariat of the WTO. This draft was based on the understanding that the Russian Federation reserved the right to determine it's commitments in respect of the state procurement supplied on non-discriminatory basis depending on the future definition of the "services purchased for governmental purposes" and in accordance with multilateral rules, that will be established in the context of Article XIII of the GATS.

261. For the purpose of protection of interests of investors, depositors, policy-holders, protection of national currency of the Russian Federation and also for the purpose of ensuring the stability and integrity of the financial system, the Russian Federation did not exclude the possibility of application of measures affecting currency regulation and currency control and any transaction involving

instruments of the internal debt of the Russian Federation and raising credits or loans at international financial markets by issuance and placement of bonds and other issue-grade securities outside the territory of the Russian Federation.

262. Russia followed the federal policy of and exercised state control vis-à-vis the natural monopolies[4] in the spheres, determined by Federal Law № 147 of 17 August 1995 "On the Natural Monopolies", for the purpose of reaching a balance of interests between the consumers and subjects of the natural monopolies[5]. The bodies regulating natural monopolies exercised control over the actions which were performed with participation of the subjects of the natural monopolies engaged in services supply or in respect of such subjects, or which could result in infringement of the interests of consumers of services, regulated in keeping with the mentioned Federal Law or subject to the restraint of the economically justified transition of the corresponding services market from the state of natural monopoly to that of a competitive market. Methods of the State regulation included the followings: the price regulation with respect to the activity of the subjects of natural monopolies in services market through the setting (fixation) of the maximum level of prices (tariffs); the identification of consumers subject to obligatory service and/or the fixation of a minimum level of their supply; control over any transactions, as a result of which a subject of natural monopoly acquires the right of ownership of fixed assets or the right of using fixed assets, not intended for services supply, regulated in accordance with the said Federal Law; control over the investments of a subject of natural monopoly in services supply, which are not regulated in keeping with the said Federal Law; control over the sale, lease, or any other transaction, as a result of which the transactor unit acquires the right of ownership or possession and/or use of the part of the fixed assets of the subject of natural monopoly, intended for the services supply, regulated in conformity with the said Federal Law.

263. In the Russian Federation services considered as public utilities could be subject to public monopolies or exclusive rights granted to private operators. Public utilities existed in sectors such as utility services, related scientific and technical consulting services, services on obligatory independent technical testing, appraisals, examinations and analysis, environmental services, health services, transport services and services auxiliary to all modes of transport. Exclusive rights on such services could be granted to private operators, for instance operators with concessions from bodies of state

[4] A natural monopoly is the state of a market in which the satisfaction of the demand on this market is more effective in the absence of competition, due to the specific technological aspects of production (in connection with the substantial decrease in the production costs per unit of services to the extent of growing volume of output), whereas services produced by the subjects of a natural monopoly cannot be replaced by consumption of other services in connection with which the demand on the given market for services produced by the subject of the natural monopolies depends to a lesser degree on changes of prices for these services than on the demand for other services.

power and local self-governmental bodies, subject to specific services obligations. These services are universal and are supplied on the basis of public contract. This measures are applied on non-discriminatory basis with respect to foreign services suppliers.

264. Realizing the state's policy of the Russian Federation in preserving, developing, and disseminating culture, it was stipulated that authorization could be required with respect to the acquisition of control over a juridical person of Russian Federation related to the cultural heritage of Russian Federation and/or being a cultural property of the peoples of the Russian Federation. Also the number of services suppliers and scope of their operation could be limited on non-discriminatory basis on the specially protected territories.

265. For the purpose of the protection and preservation of indigenous persons and exiguous ethnic communities measures directed at protection and preservation of the territories of traditional habitation of these group could be applied and preferences to these group could be granted with respect to their traditional economic activity, on the territory of their traditional habitation.

266. For the purpose of national security reasons Russia could use measures on regulation of economic and entrepreneur activity with respect to trade in services, including possession, use and disposal of land, natural resources and immovable property, entry and/or permanent stay of physical persons could be limited or prohibited within the border zones and closed administrative areas. Such measures were not aimed at discrimination of the foreign suppliers of services.

267. The required for GATS inquiry point was now under establishment.

FREE TRADE AND CUSTOMS UNION AGREEMENTS

268. In accordance with Russia's bilateral agreements on free trade with CIS countries and the Federal Republic of Yugoslavia, the importation of nearly all goods (including agricultural products) originating from those countries into the customs territory of the Russian Federation was not subject to customs duties. Such preferences were granted on the basis of a certificate of origin, provided that the exporter was a resident of the exporting country. There was no intention to establish a common external tariff within CIS.

269. A number of agreements were signed between the Russian Federation and the Republic of Belarus, the Republic of Kazakhstan, the Republic of Tajikistan and the Kyrgyz Republic. These agreements were aimed at a step-by-step formation of a customs union among the signatories.

[5] The subject of a natural monopoly is a transactor unit (legal entity) engaged in the services supply in

270. The detailed description of the score, nature and status of all these preferential arrangements were provided by the Russia Federation in the document WT/ACC/RUS/43.

271. The above-noted several agreements to create customs union were transformed into single agreement on establishment of the Eurasian Economic Community, which took effect on 30 May 2001.

272. Pursuant to Article 6 of the Agreement of the Eurasian Economic Community on the Common Customs Tariff, which took effect in January 2001, a customs tariff common for Russia, Belarus, Kazakhstan and Tajikistan would be gradually formed within a five year period. The Agreement provided for possible extension of the timeframe for formation of the Common Customs Tariff beyond the original five-year period. This process would fully take into account the future commitments of Russia as the WTO member, *inter alia,* under Article XXIV of the GATT 1994.

273. The formation of the customs union was in its initial stage. The list of goods for which import customs duty rates were the same in countries of the Eurasian Economic Community represented only 35 per cent percent of the goods nomenclature. Trade with these countries was currently carried out under the terms and conditions of a free trade regime.

274. The Government would, from the date of accession, observe the provisions of the WTO, including Article XXIV of the GATT 1994 and Article V of the GATS in its participation in trade agreements, and would ensure that the provisions of these WTO Agreements for notification, consultation and other requirements concerning free trade areas and customs unions of which Russia was a member were met.

275. The Russian Federation intended to maintain the limited scope of MFN exemptions, as provided for in the Annex on GATS Article II. Description of respective measure, countries to which the measure was applied, intended duration and conditions creating the need for exemptions were provided in the List of Article II (MFN) exemptions of the Russian Federation.

Sectorial agreements

276. Trade agreements in specific sectors which were concluded with several WTO members, falling into the definition of "voluntary export restraint agreements" covered different products such as steel and steel products, certain fertilizers, textiles and sport weapons. It was not the intention of the Russian Federation to continue these agreements which were askew of WTO commitments and

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the conditions of the natural monopoly.

the Russian Federation intended to propose to its other parties either to bring them into conformity with the WTO or to terminate these agreements from the date of Russia's accession to the WTO.

Transparency

277. Article 15 of the Constitution provided that: "Laws shall be officially published. Unpublished laws shall not be used. Any normative legal acts concerning human rights, freedoms and duties of man and citizen may not be used, if they are not officially published for general knowledge."

278. The constitutional principle of obligatory publication of legislative acts was developed in Federal Constitutional Law of 17 December 1997 No. 2-FKZ "On the Government of the Russian Federation" (as amended on 31 December 1997), in the Federal Law of 14 July 1994 No 5-FZ "On the procedure of publication and entry into force of Federal Constitutional Laws, Federal Laws, statements of chambers of Federal Assembly" and in the Decree of the President of 23 May 1996 No 763 "On the procedure of publication and entry in force of statements of the President of the Russian Federation, Government of the Russian Federation and legislative acts of the federal executive bodies". In accordance with the aforesaid legislation, only officially published federal constitutional laws, federal laws, statements of chambers of Federal Assembly were enforced within the territory of the Russian Federation. The "Parlamentskaya Gazeta" (Parliament Gazette), "Rossijskaya Gazeta' (Russian Gazette) or "Sobranie Zakonodatelstva Rossijskoj Federatsii" (Complete legislation of the Russian Federation) were the official publications of the acts mentioned above.

279. The sources of official publication of the acts of the President of the Russian Federation and the Governments of the Russian Federation were "Rossijskaya Gazeta" and "Sobranie Zakonodatelstva Rossijskoj Federatsii" . The normative acts of federal bodies of the executive power were registered in the Ministry of Justice of the Russian Federation and were subject to official publication in "Rossijskaya Gazeta» and in "Bulletin of the normative acts of federal bodies".