WORLD TRADE ORGANIZATION

RESTRICTED

WT/ACC/SPEC/RUS/25/Rev.1
19 November 2002

(02-6422)

Working Party on the Accession of the Russian Federation

DRAFT REPORT OF THE WORKING PARTY ON THE ACCESSION OF THE RUSSIAN FEDERATION TO THE WORLD TRADE ORGANIZATION

Revision

Introduction

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 GATT 1947 under Article XXXIII of the General Agreement. 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 terms of reference and the membership of the Working Party are reproduced in document WT/ACC/RUS/1/Rev.[…].

2. 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, 26-27 June 2001, 23-24 January 2002, 25 April 2002, 20 June 2002, and […] under the Chairmanship of H.E. Mr. K. Bryn (Norway).

Documentation Provided

3. The Working Party had before it, to serve as a basis for its discussions, a Memorandum on the Foreign Trade Regime of the Russian Federation (L/7410), questions submitted by Working Party members on the foreign trade regime of the Russian Federation together with replies thereto and other information provided by the Russian authorities listed in document WT/ACC/RUS/11/Rev[…] and legislative texts and other documentation listed in Annex I.

Introductory Statements

4. The representative of the Russian Federation recalled that his Government had been an observer to GATT 1947 since January 1992 when the Russian Federation continued the former USSR observer status. In this capacity, the Russian Federation had witnessed the successful conclusion of the Uruguay Round and followed its implementation. Since its request for accession to the WTO, the Russian Federation had undertaken an unprecedented process of reform of its economy progressively adopting laws and regulations consistent with WTO multilateral rules and disciplines. This process was primarily aimed at establishing the conditions for a dynamic market economy in the Russian Federation based on a stable and predictable legislative framework capable of sustaining long term economic growth and ensuring improvements in the standards of living and welfare of the Russian population as well as in the modernization of the Russian Federation's production capacity, its international competitiveness and security.

5. In this context, he noted that his Government was confronted with a number of important tasks in the social, institutional, macroeconomic and structural investment fields. In particular, the Russian Federation had to overcome the decline in the standards of living of its population resulting from the economic and financial crisis of 1998. This could be only achieved through policies aimed at stimulating growth in the country's GDP by improving economic productivity, expanding domestic sources of financial investments and creating an environment capable of attracting an increasing amount of foreign investments. In his Government's view, this would also require the maintenance of a set of policies which could adequately develop competitive domestic markets for goods, services and capitals and enhance the role of smaller and medium size enterprises and business. Regarding foreign economic policy, his Government attached great priority in securing the institutional integration of the Russia Federation in the world economy. Accession to the WTO was of primary importance in this process.

6. Members of the Working Party welcomed the Russian Federation's application for accession to the WTO and underscored the importance of a rapid integration of the Russian Federation into the multilateral trading system. To this end, members considered that the enactment of relevant legislation consistent with WTO requirements and of provisions for its implementation was essential to the establishment of the terms of accession of the Russian Federation to the WTO. Members of the Working Party equally stressed the need for completing the negotiations on commercially viable terms which should be mutually beneficial to the Russian Federation and WTO Members.

7. The Working Party reviewed the economic policies and foreign trade regime of the Russian Federation and the terms of a draft Protocol of Accession to the WTO. The views expressed by members of the Working Party on the various aspects of the Russian Federation's foreign trade

regime, and on the terms and conditions of the Russian Federation's accession to the WTO are summarized below in paragraphs […] to […].

ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE

Economic Policies

- Fiscal and Monetary Policies

8. The representative of the Russian Federation stated that current economic policies in the Russian Federation were aimed, *inter alia*, at "debureaucratization" of the economy, improvement of competition and investment attractiveness of the country, as well as at the achievement of its fiscal and monetary stability. In particular, the Russian Federation stated that current monetary policy was aimed at creating sustainable economic growth. This objective was basically being achieved by controlling money supply, maintaining a floating exchange rate for the national currency, and consolidating gold and foreign exchange reserve assets. All these actions were accompanied by measures directed at liberalizing foreign exchange regulations.

9. Noting the above statement, some members of the Working Party considered that the Central Bank of Russia (CBR) in its conduct of monetary policy continued to rely unduly on management of the exchange rate and foreign reserves and on depository operations rather than on more standard tools, such as refinancing and interest rate management. These members asked the Russian Federation to further comment on these issues.

10. In response, the representative of the Russian Federation referred to the detailed description of the CBR's activities contained in the following section on foreign exchange and payments systems.

- Foreign Exchange and Payments System

11. The representative of the Russian Federation recalled that, as a member of the International Monetary Fund (IMF) since 1992, his country followed internationally accepted monetary rules. The national currency - the Ruble (equal to 100 Kopeks) - was convertible to foreign currencies on the basis of current market rates. Pursuant to the commitments undertaken by the Russian Federation under Article VIII of the Articles of Agreement of the International Monetary Fund imposing an obligation to avoid limitations on payments and transfers under current international transactions without the approval of the Fund, and pursuant to Article 6 of Federal Law No. 3615-1 of 9 October 1992 "On Currency Regulation and Currency Control"[1], current currency operations were performed by residents and non-residents without any limitations. No multiple exchange rates were

[1] All legislative texts can be cross-referenced in Annex I to this draft Working Party Report.

maintained, but a single exchange rate based on the market. Capital transactions were subject to the regulative procedures of the CBR. 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 and publicly available through normative acts published by the CBR. The number of capital operations requiring the permissions by the CBR was constantly being reduced and superseded by simple notification procedures or free execution.

12. He noted that six exchange restrictions nevertheless remained in place (Table 1). These restrictions exclusively covered transactions involving capital flow which were not regulated by the WTO Agreement and in respect to which the Russian Federation had no commitments under its international agreements. These restrictions were gradually being abolished. The restrictions still maintained were connected first and foremost with the necessity to prevent the illegal outflow of capital from the country and to combat money-laundering practices, in line with joint efforts of the world financial community, through international financial organizations, including the Financial Action Task Force on Money Laundering (FATF). These restrictions, however, did not limit the ability of service providers to offer a service or to be established in the territory of the Russian Federation in line with WTO requirements.

13. Foreign exchange regulation and foreign exchange control were efficient against non-sanctioned leakage of capital from the Russian Federation. In this regard, the CBR was currently taking further steps in order to improve the system of control on timely and full transfer of export revenue returned to the country and on payment for goods which were imported into the territory of the Russian Federation on prepayment conditions. The CBR was also strengthening control measures to enable the detection of fictitious foreign exchange operations by residents to increase the efficiency on the transfer of foreign currency to off-shore zones. These measures were provided in the CBR Directive No. 500-U of 12 February 1999 "On Enhancing the Currency Control by Authorized Banks over the Lawfulness of Their Clients' Currency Transactions and on the Procedure for the Application of Sanctions to Authorized Banks for Breach of the Currency Legislation".

14. With regard to foreign currency acquisition and use by residents, the procedure for the acquisition of foreign currency on the internal currency market by physical and legal entities was established under Article 4 of Federal Law No. 3615-1 of 9 October 1992 "On Currency Regulation and Currency Control". Purchase of foreign currency by resident legal entities to make pre-payments under import contracts for the delivery of goods was to be made in accordance with the requirements of CBR Directive No. 519-U of 22 March 1999 "On the Procedure for the Purchase by Resident Legal Entities of Foreign Currency for Rubles on the Internal Currency Market of the Russian Federation to Make Payments under Agreements for the Import of Goods into the Russian Federation". Payments

to non-residents for the performance of works, the rendering of services or the transfer of results of intellectual activity was established under CBR Directive No. 721-U of 30 December 1999 "On the Procedure for the Purchase by Resident Legal Entities of Foreign Currency to Make Payments for the Performance of Works, the Rendering of Services or the Transfer of Results of Intellectual Activity". Existing currency legislation did not restrict the rights of resident physical persons to acquire foreign currency on the internal currency market.

15. Federal Law No. 120-FZ "On the Tax on the Purchase of Foreign Legal Tenders and Instruments Denominated in Foreign Currency" of 21 July 1997, as subsequently amended, introduced a tax in the amount of one per cent of the amount of foreign currency cash acquired by physical persons (not applicable to legal entities). At the end of June 2002, the Government of the Russian Federation approved and introduced to the State Duma a draft law "On Recognizing as Invalid Certain Legislative Acts of the Russian Federation on Tax on the Purchase of Foreign Currency and Payment Documents Expressed in Foreign Currency", envisaging the cancellation of this tax as of 1 January 2003.

16. Russian currency legislation under Article 6:5 of the Federal Law No. 3615-1 of 9 October 1992 "On Currency Regulation and Currency Control" also envisaged a requirement for resident legal entities to mandatorily sell 50 per cent of the entire amount of currency revenue received from non-residents currency revenue on the internal currency market (75 per cent prior to August 2001). Foreign currency revenue from non-residents was not subject to mandatory sale if it was:

- non-residents' contributions to charter capitals;
- income (dividends) obtained from participation in capital;
- revenue from the sale of securities (shares, bonds);
- income (dividends) from securities (shares, bonds);
- contracted loans (deposits, holdings);
- amounts received as repayment of loans (deposits, holdings) granted, including accrued interest;
- receipts in the form of charitable donations;
- foreign currency acquired by residents on the internal currency market;
- foreign currency payments made from funds remaining following the mandatory sale of a part of export revenue;
- pre-payment amounts returned by non-residents under unfulfilled import contracts.

This applied to all foreign currency export revenue - export of goods, works, services and the results of intellectual activity. The sale took place on the internal currency market at the market exchange rate of foreign currencies to the Ruble on the internal currency market on the date of the sale. Prior to the mandatory sale of the part of the export currency revenue, resident legal entities were entitled to make payments in foreign currency for the transportation, insurance and forwarding of cargoes to

non-residents and residents, and to pay in foreign currency for all customs formalities, export customs duties and commissions to authorized banks.

17. With regard to the opening of foreign currency accounts in non-resident banks by physical process and legal entities, Federal Law No. 3615-1 of 9 October 1992 "On Currency Regulation and Currency Control" determined in Article 5.2 that residents (physical persons and legal entities) could open foreign currency accounts in non-resident banks in accordance with the procedure established by the CBR. The CBR Instruction No. 100-I of 29 August 2001, "On Resident Physical Persons' Accounts in Banks Outside the Russian Federation", stated that resident natural persons could open accounts in non-resident banks functioning in OECD and FATF member-countries. Funds from these accounts could not be used to conduct entrepreneurial activity without permission from the CBR. Physical persons had to inform the tax authorities at their place of residence of the opening and closure of such accounts.

18. Resident legal entities could open accounts in foreign currency in non-resident banks on the basis of permissions of the CBR which would be issued in each specific case. Legal entities could only open foreign currency accounts in non-resident banks to make payments under international construction agreements as provided for under CBR Directive No. 1010-U of 3 August 2001, "On the List of Foreign States (Territories) and their Non-Freely Convertible Currencies, in which Residents May Open Accounts Outside the Russian Federation to Make Payments Under International Construction Agreements".

19. Some members expressed concerned that existing requirements on foreign exchange acquisition and retention actually inhibited trade. These members sought to register those concerns because the introduction of these measures by the Russian Federation was a factor in closing the Russian Federation's market for a number of products of interest to them and these measures continued to impede market access. Thus they requested additional information on the status and operation of foreign exchange control and regulatory measures in force, including restrictions on foreign exchange retention, restriction on the ability to obtain or retain foreign exchange for payments purposes, restrictions on the rights of residents to acquire and hold foreign exchange and to have account in foreign banks, pre-payment requirements for imports, and the acquisition charge of one per cent levied on the purchase of foreign exchange. This information should include details on the nature of the requirements in place, their legal basis, their purpose and WTO justification, the circumstances that led to their introduction and whether these circumstances still existed, and the Russian Federation's plans to eliminate restrictions which were still in place.

20. In response, the representative of the Russian Federation stated that pursuant to Article 10 of Federal Law No. 3615-1 of 9 October 1992 "On Currency Regulation and Currency Control" currency

control proceeded mainly along the following lines: (i) determining whether a currency transaction was consistent with the legislation in force and whether all required licenses and permits were available; (ii) control of compliance by residents with their obligations to the state nominated in foreign currency, as well as their obligations in respect of the sale of foreign exchange on the internal market of the Russian Federation; (iii) control of legitimacy of payments in foreign currency; (iv) control over full and accurate record and accounting of currency operations, and operations performed by non-residents in Russian currency for the primary purpose of controlling that foreign exchange revenues return to Russian Federation and monitoring the outflow of foreign exchange from the country under prepayment arrangements.

21. He confirmed that there were no subsidies on purchases and sales of foreign exchange. There were no restrictions for residents to buy foreign currencies on the domestic exchange market to meet their payment commitments on current transactions. Foreign currencies to pay capital transactions could also be freely obtained on the domestic market on condition that the requirement of the CBR was met. The requirement in the case of prepayment to be transferred under contracts for imports made it compulsory for residents to deposit an amount in Rubles equal to 100 per cent of the sum used for buying foreign currency for the purpose of prepayment in an authorized bank. Their requirement was regarded by the Russian authorities as a means to avoid illicit capital flight as the Russian Government made substantial payments to service its external debt and needed adequate currency control measures to check unauthorized outflow of capital, and it did not apply to residents' purchases of foreign currencies required to pay for the import of goods already delivered in the country. Moreover, pursuant to Article 149 of Part II of the Tax Code of the Russian Federation, sale and purchase of foreign currency in cash or without cash transfer (including mediation services for sale and purchase of foreign currency) were not subject to taxation.

22. While noting the above statement, several members maintained that the tax of one per cent on the purchase of foreign currency in cash was inconsistent with the non-discriminatory provisions of Article III and the requirements of Article XI of GATT 1994 and Article 4 of the WTO Agreement on Agriculture to eliminate unjustifiable restrictions on exports. The provision that purchases of foreign exchange for payments made 90 days prior to importation was subject to the tax, and all formalities, fees and requirements associated with the implementation of that provision, also discriminated against imports from more distant countries and accordingly it was inconsistent with the provisions of Article I of GATT 1994. The mandatory requirement applicable to exporters of products from the Russian Federation to convert 50 per cent of their foreign exchange earnings into domestic currency was inconsistent with the requirement of Article XI of GATT 1994 to eliminate unjustifiable restrictions on exportation. Insofar as this requirement impeded the use of foreign exchange earnings for subsequent importation, it was also inconsistent with non-discrimination requirements of Article

III of GATT 1994 and Article 4 of the WTO Agreement on Agriculture. Some members further noted that the requirement in question was especially burdensome for small importers and could therefore heavily inhibit trade. The requirement to deposit in domestic currency in an authorized bank an amount equal in value to the foreign currency purchased for the purpose of prepayment for purchase of imports was equally inconsistent with the non-discrimination provisions of Article III and XI of GATT 1994 and Article 4 of the WTO Agreement on Agriculture. For these reasons, several members urged the Russian Federation to consider the use of other methods to avoid illicit capital flight. They also requested the Russian Federation to eliminate all these requirements by the date of its accession to the WTO and to enter a commitment not to have recourse to such measures after accession.

23. In response, the representative of the Russian Federation reiterated his authorities' intention to eliminate the tax of one per cent on the purchase of foreign currency on 1 January 2003. He explained that under Article 6.5 of Federal Law No. 3651-1 of 9 October 1992 "On Currency Regulation and Currency Control" 50 per cent export earnings generated from exports of goods, services and results of intellectual activity were subject to mandatory resale through authorized banks on the internal exchange market at market exchange rates. At this stage, this requirement was an important instrument guaranteeing the stability of foreign exchange market and the predictability of the Ruble exchange rate dynamics, and a means of mobilization of currency resources required to fulfil foreign payments obligations. The Russian Government considered premature to abandon this requirement at this stage. The procedure for purchase of foreign currency with Rubles in the internal exchange market by resident legal entities for the purpose of payments under goods import contracts was provided by the CBR Directive No. 519-U of 22 March 1999 and required the implementation of the following: firstly, a resident should make a payment to the transacting authorized bank for 100 per cent of the value of the amount with which it proposed to purchase foreign currency; secondly, the resident should establish a deposit for value of the foreign currency to be purchased. Thus, the requirement to make a deposit for the purpose of purchasing foreign currencies for prepayment of imports was a mandatory enabling condition for purchase of foreign currency in the internal exchange market. It was not, however, intended to restrict rights and lawful interests of residents bat rather to control and restrain currency outflow from the country. This requirement was applicable only in case of advance payments beyond 90 days. Otherwise, foreign currencies destined to pay capital transactions might be freely obtained by residents on the domestic market. Similarly, no additional deposit was required for purposes of settlements between residents in case of payments through letter of credit, bank guarantee, or where a risk insurance was available in respect on non-return of export exchange earnings.

24. In response to further enquiries concerning advance payment under import contracts, the representative of the Russian Federation stated that neither legislation or regulatory acts of the CBR required non-residents to complete delivery within 90 days from the date of advance payment by a resident, or otherwise restrict their right to make longer-term contracts. Russian currency law stated that transfers discussed below which did not exceed 90 days were classified as current currency operations and were performed freely without any limitations and did not require a permit by the CBR. Those that took longer than 90 days were classified as operations involving capital flow thus requiring an appropriate permit issued by the CBR. An importer who may find that 90 days will be exceeded can apply for a permit before the end of the 90 day period.

25. He further explained that CBR's regulations requiring shipment of goods within 90 days of payment of invoice were non-discriminatory and could not cause interruption of transactions as modern means of transport made 90 days a sufficient time for delivery of goods to the Russian Federation from virtually any geographical location in the world. On the contrary, this requirement facilitated currency transactions as transactions of 90 days duration were qualified for current operations and did not require CBR's authorization. Further, gradual liberalization of currency regulation and control was being envisaged by his authorities. A massive reform was under way to improve existing legislation relating to currency regulation and a Federal Law "On Amendments and Supplements to the Law "On Currency Regulation and Currency Control" was in an advanced drafting stage.

26. While recognizing the liberalization efforts undertaken by the Russian Federation in this field, several members further considered it useful to be provided with an opportunity to also review the content of the new package of banking laws and information on the banking reform policy recently promoted by the Russian authorities.

- **Investment Regime**

27. The representative of the Russian Federation noted that the current policy of his Government in this area was particularly directed at creating the conditions to promote the expansion of domestic and foreign investments, and also the formation of transparent and stable rules in the conduct of economic activities.

28. 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, No. 51-FZ of 30 November 1994 (as amended on 20 February, 12 August 1996, 8 July 1999, 16 April, 15 May 2001) and Part Two, No. 14-FZ of 26 January 1996 (as amended on 12 August 1996, 24 October 1997, 17 December 1999); and a number of other legislative acts. Those legislative acts provided proper

guaranties for the protection of foreign investors' rights and interests and advantageous conditions for foreign investors and enterprises which intended to invest in the Russian Federation respecting its domestic investment legislation and relevant international treaties signed by the Russian Federation.

29. In response to questions by some members, he added that the adoption of the Land Code of the Russian Federation (Federal Law No. 136-FZ of 25 October 2001), together with a number of legislative acts on "debureaucratization" (Federal Law No. 128-FZ of 8 August 2001 "On Licensing of Specific Types of Activity", as well as Federal Law 178-FZ on Amending the Law on Licensing Specific Kinds of Activities dated 26 November 1998), Federal Law No. 134-FZ of 8 August 2001 "On the Protection of Legal Entities' and Individual Entrepreneurs' Rights in the Case of Exercise of State Control (Supervision)", and the Tax Code of the Russian Federation significantly contributed to the formation of a favourable investment climate and facilitated the activity of Russian and foreign companies in the Russian market.

- **State Ownership and Privatization**

30. The representative of the Russian Federation noted that the multilateral trade agreements resulting from the Uruguay Round did not contain any requirements in respect of undertakings in relation to privatization. He was willing, however, to provide information on privatization policies and their implementation in the Russian Federation.

31. He further noted that the government privatization policy was aimed at a structural reform of the Russian economy and at developing its private sector by expanding the scope of privatization. This policy also provided for: the formation of budget revenues; minimization of federal budget costs of public property management; encouragement of investment in the production sector of the Russian economy; improved opportunities for medium and small business participation in the privatization by means of diversifying the instruments of privatization of State and municipal property; and the consolidation of real properties by means of attaching land plots to the property privatized. Privatization in the Russian Federation was based on the principles of transparency and predictability of privatization procedures, equal treatment of all purchasers of state and municipal properties and transparent procedures of state authorities and local administrations. The legislative basis for privatization consisted of Federal Law No. 178-FZ of 21 December 2001 "On Privatization of State and Municipal Property", and the related implementing legislation.

32. Privatization of State enterprises were executed pursuant to the following basis legal acts:

- the State Program of "Privatization of State and Municipal Enterprises in the Russian Federation" (approved by Presidential Decree No. 2284 of 24 December 1993, as amended on 14 March 1996, 6 October 1997, 15 July 1998, 25 July, 1 August 2000, 3 April 2002);

- Basic Provisions of the State Program of "Privatization of State-Owned and Municipal Enterprises in the Russian Federation after 1 July 1994" (approved by Presidential Decree No. 1535 of 22 July 1994 as amended on 16 April 1998, 25 January 1999);
- the Conception of Management of State Property and Privatization in the Russian Federation (approved by Government Decision No. 1024 of 9 August 1999, as amended on 29 November 2000).

33. He further added that pursuant to Federal Law No. 178-FZ of 21 December 2001 "On Privatization of State and Municipal Property" property classified under federal laws as a non-alienable object of civil rights (an object exempt from alienation) - natural resources, budgetary funds, defense facilities and objects, sanitary and epidemiological services, etc. - and also property that could only be in state or municipal ownership as established by federal laws could not be privatized.

34. Some members requested additional information on the criteria applied by local government authorities in deciding whether to permit foreign participation in particular privatizations and, if so, under what conditions. In this context, clarifications on the nature of the relationship between local and the national regulatory framework were sought. These members also required more information on the scope and future of the Russian Federation's privatization efforts and more information on those enterprises which would not be privatized. In particular, a clarification was sought regarding state-owned sectors which were excluded from foreign participation in privatization.

35. In response, the representative of the Russian Federation stated that Federal Law No. 178-FZ of 21 December 2001 "On Privatization of State and Municipal Property" did not itself contain any restrictions concerning foreign participation in privatization, but required mandatory compliance with the restrictions established by other legal acts. The State Program of Privatization of State and Municipal Enterprises in the Russian Federation (approved by Presidential Decree No. 2284 of 24 December 1993) provided that the Government of the Russian Federation and governments of the subjects of the Russian Federation were entitled to define the terms of foreign investor participation in the privatization of facilities and objects of the defense industry, the oil and gas industry, mining and processing of ores of strategic materials, precious and semiprecious stones, precious metals, radioactive and rare-earth minerals, certain objects and facilities in transportation and communications (federally owned and privatized at a decision of the Russian Federation Government), when making the decision on privatization. In each instance a regulatory legal act should be adopted. According to the State Program of Privatization of State and Municipal Enterprises in the Russian Federation, the privatization decision and authorization of foreign participation for retail and wholesale enterprises, public catering[2] and consumer services[3], as well as of small

[2] Public catering – restaurants, fast-food enterprises and other eating places.

enterprises in industry, construction, and automobile transportation, which were the subjects of municipal ownership, were to be made by local administrations. Privatization of State property maintained by the subjects of the Russian Federation and of municipal property was governed by the Russian Federation legislation on privatization.

36. In response to requests from members for information on the current progress in privatization, he further stated that 90,947 enterprises had been privatized between 1993 and 2001 (Table 2). He also provided information concerning privatization by sectors (Table 3). He noted that according to the Common Russian Classifier of Sectors of the Economy (approved by Decision No. 21/97 of Gosstandard of the Russian Federation on 29 October 1997, as amended on 15 January, 31 August 1999, 15 February 2000) "Industry" included fishing and mining, and wood-processing, timber-processing and cellulose and paper producing industries as a single category. Forestry (forestation, forest regeneration) was a separate sector of economy and pertained to "Other areas of economy". According to the Conception of Management of State Property and Privatization in the Russian Federation (approved by Government Decision No. 1024 of 9 August 1999 only such enterprises could be maintained in the form of Federal State unitary enterprises which complied with the criteria stipulated in Government Decision No. 1348 of 6 December 1999 "On Federal State Unitary Enterprises Based on the Right of Economic Jurisdiction (maintenance of national defense and national interest, solution of social goals)". According to Article 113 of the Civil Code of the Russian Federation, the unitary enterprise was recognized as a commercial organization, not endowed with the right of ownership to the property, allotted to it by the property owner. Only State and the municipal enterprises were set up in the form of unitary enterprises.

37. He further noted that according to the national statistics, in 2001, the State sector (i.e. State unitary enterprises and joint-stock companies more than 50 per cent owned by the State) in all sectors of economy accounted for 13.4 per cent of the total production of goods and services (and 14.1 per cent in 2000), 9.7 per cent of the total industrial production and services, and 13.2 per cent of the total agricultural production (Annual Report On Development of State Sectors of Economy in the Russian Federation in 2001, Goskomstat) .

38. [Members of the Working Party invited the Russian Federation to enter a commitment to report on developments in its program of privatization as long as the privatization program was in existence and on other issues related to any ongoing economic reforms relevant to its obligations under the WTO.]

[3] Consumer services – includes hairdressing saloons, dry-cleaner's, repair of householder equipment, shoe repair, etc.

39. [The representative of the Russian Federation confirmed the readiness of the Russian Federation to ensure the transparency of its ongoing privatization programme and to keep WTO Members informed of progress in the reform of its economic and trade regime. He stated that his Government would provide annual reports to WTO Members (along the lines of that provided to the Working Party) on developments in its programme of privatization as long as the privatization programme was in existence. He also stated that his Government would provide annual reports on other issues related to economic reforms as relevant to its obligations under the WTO while the Russian Federation was still in the process of reforming its economy.]

- **Pricing Policies**

40. The representative of the Russian Federation explained that the main objective pursued by his authorities was to introduce the principle of free market price formation based on supply and demand in the economic field. Therefore, prices in most sectors of the Russian economy were determined freely by market forces. Presidential Decree No. 221 of 28 February 1995 "On Measures to Streamline the State Regulation of Prices (tariffs)" (as amended on 8 July 1995) and Government Resolution No. 239 of 7 March 1995 "On Measures to Streamline the State Regulation of Prices (Tariffs)" (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 those goods and services comprehensively listed in Tables 4-6. 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 published in "Rossiiskaya Gazeta".

41. He noted that 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 market conditions and the current regulatory provisions regardless of whether they were sold to domestic or foreign purchasers. Contract prices for exports of goods and services subject to state price regulation from the territory of the Russian Federation were also fixed by enterprises depending on market conditions. However, in sectors where natural monopolies existed (transportation of oil and oil products along main pipelines; transportation of gas along main pipelines; transfer of electric heat and power; transportation by rail; services of transport terminals, sea and river ports and airports; services of generally accessible electric[4] and postal communication services) and in the case of

[4] The term "electric" refers both to the description of power supply and to telecommunication services.

products purchased exclusively or mainly by the State such as defense products, pricing was based on production costs and established in a way which excluded any possible abuse by the producer/supplier of its monopoly position. The procedures and principles used for fixing prices of goods and services regulated by the State differed depending on the type of goods or services. For some goods a minimum price level was fixed (e.g. for alcoholic beverages above 28 proof) while for others a maximum price level was settled (e.g. in railway transportation). In addition, in the case of air, road and river transport services involving competing groups of carriers, the carriers themselves had the right to set their own prices within established profit margins.

42. Members of the Working Party asked for further clarifications on how State controlled prices were actually determined and what their relation to international prices was. Noting that there was no agreement in the WTO on what could constitute a "natural monopoly", and therefore questioning the use of such term, some members required further clarification on the extent to which prices charged by these so-called "natural monopoly" suppliers of goods and services would differ depending on whether they were sold to a domestic or foreign purchaser or – in the case of services associated with the sale of goods – they related to goods destined for export rather than for domestic consumption. Some members sought additional information on the Russian Federation's announcement of efforts to unify its domestic and foreign operating tariffs for railways, as well as a status report on developments. A member requested further clarification on the grounds for fixing the minimum price level of vodka, liquor products and other alcohol stronger than 28 proof. This member also asked the Russian Federation to explain how this practice could be in compliance with the Agreement on the Implementation of Article VII of GATT 1994. Another member asked whether gas liquids and condensate, e.g. those used for petrochemical feed stocks, were also included in the list of items under price control.

43. The representative of the Russian Federation replied that the following elements were considered in determining the prices for products and services of natural monopolies[5]: the 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. In response to other

[5] Under Russian legislation in force the term "natural monopoly" means the state of the commodity market when the satisfaction of the demand on this market is more efficient in the absence of competition, due to specific technological aspects of production (in connection with a substantial decrease in the production costs per unit of goods in the course of the growing volume of output), whereas goods produced by subjects of the natural monopoly cannot be substituted in their consumption. As a result, the demand on the goods, which were produced by subjects of the natural monopolies and are on the commodity market depends to a lesser extent on the price changes for these goods than the demand on other goods does.

enquiries, he said that the communication services which were regulated on the domestic market of the Russian Federation by the Ministry of Antimonopoly Policy and Entrepreneurship Support of the Russian Federation (approved by Government Resolution No. 715 of 11 October 2001 "On Developing the Mechanism of the State Regulation of Tariffs on Communications Services"), were as follows:

- domestic correspondence (postcards, letters, parcels);
- domestic cable services;
- long-distance calls provided for registered subscribers:
- spreading and broadcasting of national television channels;
- providing access to telephone line regardless of the subscriber line type (cable line or cable free (radio) line);
- local calls provided for registered subscribers. The charge for the local calls includes:
- when the telephone services are provided upon subscription - the rental fee for the permanent use of the subscriber line regardless of its type and for the use of the local telephone line regardless of the telephone talk duration;
- when payment for the telephone services is made by time - the rental fee for the permanent use of the subscriber line regardless of its type and the variable payment for the use of the local telephone line depending on the duration of the telephone talk counted in the tariffing units;
- the provision of the cellular networks and value-added networks shall not be part of the natural monopoly, market principles of pricing are employed in the formation of the prices for these services;
- liquefied gas and gas condenser are included in the list of goods, the prices for which are regulated by the state.

44. He further noted that fixing the minimum price level of vodka, liquor products and other alcohol stronger than 28 proof related only to the internal sale and did not discriminate against imported products. This measure had no bearing on customs valuation procedures.

45. Regarding price controls applied at the sub-regional level, some members of the Working Party enquired about the legal basis and scope of authority to apply price controls at this level, and about whether these measures were actually reviewed by the federal authorities.

46. The representative of the Russian Federation replied that 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 also regulated, as well as prices for all means of commuter passenger transportation (except railways), communal services for the population (including rent), and public utilities. Decisions on pricing taken at federal level by bodies authorized to regulate the activity of natural monopolies were compulsory 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 current regulatory provisions, taking into account recommended prices approved by federal executive bodies.

47. He confirmed that Order No. 12/1 of the Federal Energy Commission of 24 March 1999 "On Granting a 50 per cent Reduction of Prices of Gas to Enterprises which Produce Chemical Fertilizers, Chemical Protection for Plants and Raw Materials for Production Thereof, in 1999" had been repealed in the course of that year and since there were no other legal provisions that provided for similar price reductions for industries.

48. Noting that the Russian Federation had indicated that discriminatory pricing for transportation on railway freight could be eliminated by 1 March 2002, some members asked the Russian Federation if this measure had been implemented as planned. These members expected the Russian Federation to treat all import and export cargoes on the same basis as domestically produced goods, in line with the national treatment requirements of Article III, and to make a commitment to this in the Working Party Report.

49. In response, the representative of the Russian Federation explained that his authorities were prepared to introduce the same pricing scheme on import-export cargoes as it was domestically. He added that in August 2001 the first stage of unification for railway freight rates was implemented with the transition to payment for export and import cargoes shipped through Russian ports based on Price List No. 10-01 tariffs. Competent federal authorities were preparing the second stage of this tariff unification which would extend Price List 10-01 tariffs to export and import cargoes shipped through Russian border checkpoints. This would eliminate the existing differentiation in pricing for export and import cargoes shipped through Russian ports and border checkpoints and domestically circulated cargoes.

50. Some members expressed strong concerns about the trade distortions caused by State controls on the pricing of energy for domestic consumption (whether in the form of gas, oil or electricity). The effect of these controls was to depress prices for domestic industrial users and to lead to a very wide differential between the price paid by domestic industrial users and the price paid by export customers as well as the world market price. This price differential was in the order of as much as six to one for gas, five to one for electricity and four to one for oil. For example, the price of natural gas to domestic industry was around US$15 per 1,000 cubic metres, compared to an average export price at The Russian Federation's western borders in 2001 of US$116 per 1,000 cubic metres. Even in the oil market, which was more deregulated, the price of crude oil on the domestic spot market was around US$5 per barrel in January/March 2002 when the prevailing world price was around US$20. These price comparisons were independent of any price variations resulting from differences in internal taxation rates. The negative effects of the price differential were also potentially amplified by other

factors such as non-payment by domestic consumers. This dual pricing contributed to an indirect subsidization of Russian industrial producers, as they do not have to pay a full market price for their energy inputs. This situation had implications for the ability of imported goods to compete on the Russian market and could lead to a displacement of member products from third country markets. Moreover, the non-market pricing of such inputs rendered price comparisons in trade defense investigations (anti-dumping and anti-subsidy) problematic. Also, as a result of the non-market pricing of such inputs, Russian exports of "downstream" intermediate or finished goods, particularly of products that are energy-intensive such as fertilizer or metals, can take place at prices below their normal value, leading to the possibility that they could face anti-dumping or countervailing actions in export markets. These members recognized that this was an area where the Russian Federation had begun a process of regulatory reform, which could not be achieved overnight, and also understood that the Russian Federation could wish to maintain controls on the price of energy sold for domestic household consumption. But they considered that the opportunity of WTO accession should be taken to tackle the negative impact of dual pricing in favour of manufacturing industry at its source. They further considered that the progressive phasing-out of these subsidies - together with the phasing-out of export duties applied on associated products and a broader regulatory reform in the energy sector - would also benefit the wider economy of the Russian Federation by allowing for a more rational resource allocation and stimulating greater investment and competitiveness.

51. The representative of the Russian Federation stated that underground resources within the territory of the Russian Federation, including subsoil domain and mineral resources contained therein, energy and other resources were property of the State. Gas, oil and electricity were pertaining to the sovereign rights of the Russian Federation. He further pointed out that "dual pricing" mentioned by some members was, in the view of his Government, not regulated by WTO Agreement. Regarding the view expressed by some members that the Russian Federation's energy policies could imply an element of "an indirect subsidization of Russian industrial producers, as they do not have to pay a full market price for their energy inputs', he said that in his Government's view such an issue would not follow under the tests established by the WTO Agreement on Subsidies and Countervailing Measures for determining the existence of an "actionable" subsidy.

52. [The representative of the Russian Federation confirmed the Russian Federation would apply price controls on products and services contained in Tables […], and any similar measures, including dual pricing, that are introduced or reintroduced in future, in a WTO consistent manner, and take account of the interests of exporting members as provided for in Article III:9 of GATT 1994. From the date of accession, the Russian Federation will publish lists of goods and services subject to State price controls in its Official Gazette, including the list in Tables […] and any changes from that list.]

- **Competition Policy**

53. The representative of the Russian Federation stated that his authorities attached great importance to competition policy. Noting that it was not fully covered by current WTO provisions, the Russian Federation closely followed the activities of the WTO Working Group on the interaction between trade and competition policy. The basic goal of competition policy in the Russian Federation was to create a favourable climate for developing free enterprises, and facilitating competition and effective functioning of commodity markets by preventing, restraining and eliminating monopolistic and anti-competitive practices among economic operators. To this end, the Russian Federation had adopted and maintained a number of legislative acts implementing its competition policy. The existing Russian legislation, consistent with international norms, contained all the basic elements of state supervision and control over agreements (Concerted Actions) of economic operators which could affect competition on the commodity and financial services markets.

54. He also noted that the role of the Ministry of Anti-monopoly Policy of the Russian Federation (MAP) was to implement government competition policies and control the enforcement of anti-monopoly legislation. The main functions of the MAP were to prevent, restrain and prosecute monopolistic activities and unfair competition practices; promote the formation of a market environment through developing competition; implement state control over the enforcement of anti-monopolistic legislation and related legislative acts. In response to questions raised by some members, he explained that MAP was entrusted with the responsibility of introducing legislative initiatives in the field of anti-monopoly activity; development and execution of measures on demonopolization of production and distribution of goods and services; monitoring of compliance with anti-monopoly requirements in the establishment, mergers and affiliations of business (unions and associations) liquidation and separation (spin-off) of state and municipal enterprises and buy-ins into commercial companies; advising on the effects of safeguard measures on competition in the Russian market; monitoring compliance to anti-monopoly legislation and related legislation by federal and regional executive authorities, local administrators, business and non-profit organizations. The Constitution of the Russian Federation referred promotion of competition and freedom of enterprise to the competence of the Russian Federation.

FRAMEWORK FOR MAKING AND ENFORCING POLICIES

Powers of executive, legislative and judicial branches of government; Government entities responsible for making and implementing policies affecting foreign trade; Division of authority between central and sub-central governments

55. The representative of the Russian Federation stated that, 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. The competence of each body of power was defined in Chapters 4, 5 and 6 of the Constitution of the Russian Federation respectively.

56. The right of legislative initiative was vested with the President of the Russian 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 in matters under their jurisdiction with the Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation, the Superior Court of Arbitration of the Russian Federation.

57. In response to enquiries by members of the Working Party, he explained that the functioning of the judicial system of the Russian Federation was regulated by Federal Constitutional Law, No. 1-FKZ of 31 December 1996 "On Judicial System of the Russian Federation"; No. 1-FKZ of 21 February 1994 "On Constitutional Court of the Russian Federation" (as amended on 8 February 2001) and No. 1-FKZ of 28 April 1995 "On Arbitration Courts in the Russian Federation". Judicial power was exercised exclusively by courts manned by judges, juries, and arbitrators duly appointed under constitutional, civil, administrative and criminal court proceedings. No other agencies or persons were entitled to administer justice. The judicial power was separated from, and acted independently of, the legislative and executive powers. Justice was equal for all. Courts should not favour any agency, person or otherwise complainant based on nationality, sex, race, language, political convictions or any other grounds unless established by federal laws. The judicial system comprised federal courts, constitutional courts and district courts. Judgements by these courts after taking effect as well as any lawful rulings, including requests, orders, summons and other communications were binding for all governmental authorities, local administrations, officials, community associations, other natural persons or legal entities. Judgements were enforceable without reservation in the whole territory of the Russian Federation. Failure to comply with a court judgement, or any other act of contempt for the court, shall entail liabilities provided by federal laws. The rules of civil procedure in federal courts of general jurisdiction were provided by the Civil Procedure Code of the Russian

Federation, whereas procedures for the settlement of disputes by arbitration courts were stipulated in the Arbitration Procedural Code of the Russian Federation No. 70-FZ of 5 May 1995.

58. The Russian legal system comprised federal normative legal acts and normative legal acts of the subjects of the Russian Federation. The federal normative legal system consisted of the Constitution; federal constitutional laws; federal laws; decrees and resolutions of the President of the Russian Federation; resolutions and orders of the Government of the Russian Federation; and acts of federal executive authorities[6]. The normative legal system of the subjects of the Russian Federation consisted of the constitutions of Republics of the Russian Federation; charters of other subjects of the Russian Federation; laws of the subjects of the Russian Federation; and normative legal acts of governments of the subjects of the Russian Federation. The Constitution of the Russian Federation was the supreme instrument in the hierarchy of normative legal acts. The Constitution had overriding power and was applicable in the entire territory of the Russian Federation. All federal normative acts and normative legal acts of the subjects of the Russian Federation should be in compliance with the Constitution. Federal constitutional laws regulated issues directly provided for under the Constitution of the Russian Federation. Federal laws regulated areas of joint competence between the Russian Federation and its regions. The Constitution provided for the clear jurisdiction of the Russian Federation and the joint jurisdiction of the Russian Federation and its subjects (Article 72). Presidential decrees and resolutions did not prevent the Federal Assembly from enacting a law covering the same issue, although the scope of such law would not have to be limited to it. Government resolutions and orders were issued on the basis and in furtherance of the Constitution, federal constitutional laws, federal laws and Presidential decrees and resolutions. The need for such resolutions and orders were, as a general rule, provided for in the relevant law, decree or resolution. These legislative acts were also binding throughout the entire territory of the Russian Federation and might be appealed in court. Acts of federal executive authorities were issued on the basis of and furtherance of federal laws, presidential decrees and resolutions, and Government resolutions and orders. These acts should be in compliance with the relevant normative provisions. They had an auxiliary and detailing function. International treaties contracted by the Russian Federation were concluded by appointed federal authorities on behalf of the Russian Federation. Following their official acknowledgement, ratification and approval, international treaties were binding throughout the entire territory of the Russian Federation. In accordance with Article 15 of the Constitution, 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 should apply.

[6] Acts of federal executive authorities (i.e. acts whose binding effect extends to all of the territory of the Russian Federation) are as follows and limited to: resolutions, orders, rules, instructions, regulations and decisions. Recommendations, letters, telegrams, teletype messages are not regulatory legal acts (Order No. 217 of the Ministry of Justice of July 14, 1999). Such acts have recommendatory character only and are intended for use within the relevant ministry or department.

59. A mechanism for controlling compliance of normative legal acts of the subjects of the Russian Federation with federal laws was established by Federal Law No. 184-FZ of 6 October 1999 "On General Principles of the Organization of the Legislative Representative and Executive Authorities of State Power of the Subjects of the Russian Federation". The Public Prosecutor's Office was in charge of such control. Eventual protests were lodged with the issuing authority or their superior authority. The Public Prosecutor, in line with established procedures, could apply to the Supreme Court of the concerned republic, territorial court, court of a city of federal significance, autonomous district, or autonomous region to invalidate such acts. Presidential Decree No. 849 of 13 May 2000 "On the Authorized Representative of the President of the Russian Federation in a Federal District" institutionalized the function of a presidential representative in a federal district. Among his tasks, the presidential representative was required to submit to the President proposals regarding the suspension of acts of executive authorities of the subjects of the Russian Federation that contravened the Constitution, federal laws or international commitments of the Russian Federation. Presidential Decree No. 1486 of 10 August 2000 "On Supplementary Measures to Provide Integrity of Legal Treatment in the Russian Federation" created a federal registry of normative legal acts of the subjects of the Russian Federation. The highest authorities of the subjects of the Russian Federation were required to forward to the Ministry of Justice of the Russian Federation copies of their normative legal acts within 7 days from adoption for inclusion in the federal registry and legal review. Where any of such normative legal acts were found inconsistent with federal laws, the Legislative Department of the Ministry of Justice drafted a presidential decree suspending such act. The Legal Department also drafted inquiries to the Constitution Court of the Russian Federation together with proposals on reconciliation procedures or proposals for rectifying the conflict in case. Lawsuits on compliance where heard by the Constitutional Court of the Russian Federation. Acts or parts thereof found to contravene the Constitution become invalid.

60. Under the Russian legislation, an 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. The Protocol of Accession 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 a federal law. Article 7 of the Civil Code of the Russian Federation provided that international agreements of the Russian Federation had direct effect in regard to relations regulated by civil law except where such international agreements required a national act to be passed for their enforcement. It follows that the provisions of an

international agreement should apply throughout the territory of the Russian Federation after ratification.

61. Several members considered that a more explicit description was required regarding to the right of administrative appeal, in particular concerning the right of appeal to an independent tribunal or judicial review and the procedures applied (e.g. fees, timetables, etc.). Some members also requested additional information on how the Government of the Russian Federation was working with the Experts Committee of the Duma to ensure that WTO-inconsistent draft laws would not be enacted and that those already in place would be phased out. They also felt that standard Protocol commitment language would be required to clarify the right and the willingness of the central Government to take the initiative to overrule any WTO-inconsistent measures which might be identified and to provide the right of appeal to an independent tribunal or judicial review as necessary. Some members further enquired whether there were any state fees charged for appeals concerning WTO provisions.

62. The representative of the Russian Federation replied that any decisions or action/inaction by the state authorities, local administrations, community associations or officials could be appealed to court. Depending on the issue, appeals could be addressed either to the Government or its agency which controlled the activity of the body responsible for such decision, or the respective court of jurisdiction. It was up to the claimant whether to use administrative or court procedures. In response to enquiries on administrative appeals, he said that the procedure for appealing against action by customs bodies, as well as actions and omissions by their officers, was provided in the Customs Code of the Russian Federation. Under this procedure, a person might appeal against the decisions, including regulatory acts, actions and omissions of the Russian Federation customs bodies if he considered that his rights and statutory interests had been violated. Appeals against decisions, actions or omissions of the Russian Federation customs bodies, as well as their officers, might be lodged with a higher customs body of the Russian Federation or with a supervising customs officer and shall be considered within one month. Appeals against actions or omissions by the State Customs Committee of the Russian Federation and its officers might be lodged before the Committee. A higher customs body or the State Customs Committee of the Russian Federation might extend the terms for consideration of an appeal, but not more that two months. The procedure for appealing against acts issued by tax bodies and actions or omissions of their officers was regulated by the Tax Code of the Russian Federation. Acts issued by tax bodies, as well as actions and omissions by their officers, might be appealed before a higher tax body (a supervising officer) or a court, either simultaneously or consecutively. An appeal shall be considered by a higher tax body within one month from the date of its receipt. The tax body shall take a decision within one month. Such decision shall be notified to the person lodging the appeal within 3 days after the decision was taken. 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 Federal Law No. 2005-1 of 9 December 1991 "On State Fees".

63. He explained that in 2000, a Foreign Trade and Foreign Investment Expert Council was created within the State Duma under the Committee for Economic Policy and Business to collect opinions of government authorities, public organizations, scientific and business circles, and foreign investment and foreign trade legislators, weigh them against the WTO disciplines, and coordinate their legislative work connected with WTO accession. The Foreign Trade and Foreign Investment Expert Council includes representatives of the Duma, the Government of the Russian Federation and scientific and business circles. The task of the Expert Council was to support a dialogue between the Government of the Russian Federation responsible for the actual negotiations process, the legislators providing the legislative support for and ratification of the agreement, and the business community directly affected by the Russian Federation's accession to the WTO. He further noted that a representative of the Expert Council was regularly attending meetings of the Working Party on the accession of the Russian Federation to the WTO.

64. [The representative of the Russian Federation confirmed that the provisions of the WTO Agreement should be applied uniformly throughout the Russian Federation's customs territory and other territories under the Russian Federation's control within its state border, including in regions engaging in border trade or frontier traffic, special economic zones, and other areas where special regimes for tariffs, taxes and regulations were established. He added that, when informed of a situation where WTO provisions were not being applied or were applied in a non-uniform manner, central authorities would act to enforce WTO provisions without requiring affected parties to petition thought the courts.]

65. [The representative of the Russian Federation also confirmed that in matters involving international trade subject to WTO provisions, his authorities would provide judicial, arbitral or administrative recourse to an independent tribunal or judicial review, in conformity with WTO obligations, including, but not restricted to, Article X:3(b) of GATT 1994, and relevant provisions in the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights and the General Agreement on Trade in Services.]

POLICIES AFFECTING TRADE IN GOODS

Registration requirements for import/export operations

66. Several members noted that laws and regulations relating to the right to trade in goods (also referred to as "registration requirements" or "activity licensing") should not restrict imports in violation of the general prohibition on quantitative restrictions as under Article XI:1 of GATT 1994,

nor should they discriminate against imported goods in violation of the non-discriminatory provisions of Article III:4 of GATT 1994. Furthermore, fees and charges levied on the right to import should be limited to the cost of services rendered as under Article VIII:1(a) of GATT 1994, and taxes and charges on the right to trade in imported goods should not lead to discrimination in favour of like domestic products as required by Article III:2 of GATT 1994.

67. The representative of the Russian Federation said that his government did not restrict the right of persons and entities to import or export. He noted that the elimination of the State monopoly in foreign trade was proclaimed by Presidential Decree 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 embodied in the Civil Code and the Constitution of the Russian Federation.

68. Some members required more detailed information regarding activity licensing requirements relative to pharmaceuticals, natural gas, electricity, alcoholic beverages, metals and precious stones. These members were particularly interested in obtaining a clarification regarding the steps taken by the Russian authorities to bring existing practices into consistency with WTO requirements. Noting that the Ministry of Agriculture and the State Customs Committee of the Russian Federation (SCC) had recently made efforts to limit the number of both importing and exporting firms engaged in international trade of certain products, these members further requested an explanation on the reasons for these limitations and the legal basis upon which they might be taken for both domestic and foreign trading firms.

69. In response, the representative of the Russian Federation said that activity licensing requirements in foreign trade on the territory of the Russian Federation were described in Federal Law No. 157-FZ of 13 October 1995 "On the State Regulation of the Foreign Trade Activity" (amended 8 July 1997, 10 February 1999). Article 2 of this law stipulated that foreign trade activity could be carried out both by Russian as well as foreign participants in foreign trade activities. Foreign participants in foreign trade activities were legal entities or natural persons recognized as such by the law of foreign states. If foreign companies or natural persons carried out foreign trade activity (exportation or importation) as foreign participants of foreign trade activity, they did not need to be registered or have any investments in the Russian Federation. The Russian participants in foreign trade activities were Russian juridical entities or natural persons who had obtained state registration as juridical entities or individual entrepreneurs in accordance with the Russian law.

70. Registration of legal entities and natural persons as individual entrepreneurs was performed in accordance with Article 51 of the Civil Code and Presidential Decree No. 1482 of 8 July 1994 "On

Streamlining of State Registration of Enterprises and Entrepreneurs in the Territory of the Russian Federation" and Federal Law No.129-FZ of 8 August 2001 "On State Registration of Juridical Persons". The registration of a legal entity required the submission of an application, the charter of the legal entity in question approved by its founders, a documentary confirmation of payment of no less than 50 per cent of the charter capital of the firm, and a certificate of payment of state duty in the amount of 252 Rubles. The registration of a natural person as an individual entrepreneur required an application from that person and a document confirming the payment of the registration charge in the amount of 100 Rubles. Denial of registration could be appealed through a judicial procedure. The registration act permitted the enterprise/individual entrepreneur to engage in economic activity, including foreign trade activity. The above-mentioned principles entered into force on 1 July 2002 and regulated registration of the establishment, reorganization or liquidation, and introduction of amendments to instituting documents of legal entities as well as and the conduct of the State Registry of legal persons. The law established the order for the 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. The lists of documents necessary for the registration of a new legal entity as well as of an entity under reorganization were stipulated in Article 5 of the Law on State Registration (application for registration, description of the organizational form, address, copies of instituting documents, and the charter capital) and were exhaustive. Under subparagraph 4 of Article 9, the registering body could not demand any other documents than those mentioned in the Law on State Registration. Subjects of the Russian Federation 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.

71. He further noted that Article 10 of the Law No. 157-FZ of 13 October 1995 "On the State Regulation of Foreign Trade Activity" (amendments of 8 July 1997, 10 February 1999) established that all Russian participants of foreign trade activities were permitted to undertake foreign trade activity, regardless of the form of their property and without any additional special permission or activity licence. This rule had only three exceptions. The first was the importation and exportation of alcoholic beverages. Pursuant to Federal Law No. 173-FZ of 22 November 1995 "On State Regulation of Production and Turnover of Ethyl Alcohol, Alcoholic and Alcohol-Containing Products" (as amended on 7 January 1999), natural persons and legal entities wishing to do business in these areas needed to obtain an 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 were stipulated in Articles 18 – 21 of the said Law. Licensing fees provided by Federal Law No. 5-FZ of 8 January 1998 "On Charges for Issuance of Licenses for Production and Turnover of Ethyl Alcohol, Alcohol Containing – Products" are shown in Table 7.

72. The second exception related to imports and exports of pharmaceutical products (medicines). According to Federal Law 86-FZ of 22 June 1998 "On Medicines", the right to exports and imports of pharmaceuticals was enjoyed by Russian participants of foreign economic activities, who had a licence for the production or wholesale trade of these goods. Pursuant to Federal Law No. 128-FZ of 8 August 2001 "On Licensing of Certain Types of Activity", the licensing requirement in respect of pharmaceutical activity and production of medicines was due to the overall requirement of license availability in all types of activity that might cause damage to rights, lawful interests and health of Russian nationals and where regulation was only possible in the form of licensing. Once a company obtained such an activity licence in all two 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. In accordance with Article 15 of Federal Law No. 128-FZ of 8 August 2001 "On Licensing of Certain Activities", a fee of 1,300 Rubles (about US$40) was charged for the issuing of each licence. The limitation of the number of companies importing and exporting certain products could be done by virtue of federal law only. In absence of such a law no authority had the right to take such measures.

73. The third exception concerned the importation of precious stones and metals. The exportation of unprocessed precious metals was prohibited in the Russian Federation. The exportation of affinated platinum was effected under quota restrictions and the exportation of affinated gold, silver and natural precious stones was effected under non-automatic licensing. To obtain an export license for precious metals and precious stones under Presidential Decree No. 742 of 21 June 2001, "On the Procedure of Importation into and Exportation from the Russian Federation of Precious Metals and Precious Stones". The following authorizations were required: (i) CBR and crediting institutions having the CBR licence to perform operations with precious metals under the Federal Law No. 395-1 of the Russian Federation of 2 December 1995 "On Banks and Banking", extracting organizations having the licence under the Federal Law No. 2395-1 of the Russian Federation of 21 February 1992 "On Underground Resources" as well as the producers and individual entrepreneurs having the confirmed property rights to a certain metal had the right to export of refined gold and silver; (ii) for export of precious stones and precious metals – registration certificate of the Purity Supervision Committee (issued based on Federal Law No. 41-FZ of 23 March 1998 "On Precious Metals and Precious Stones"); (iii) for export of ores of non-ferrous metals containing precious metals – opinion of the Ministry of Finance and the Ministry of Industry and Science regarding the practicability and feasibility of commercial recovery of precious metals (Presidential Decree No. 742 of 21 June 2001, "On the Procedure of Importation into and Exportation from the Russian Federation of Precious Metals and Precious Stones"). Certain cases require a permit from the Ministry of Natural Resources of Russian Federation where ores and concentrates qualifying for hazardous wastes were exported (Government Resolution No. 766 of 1 July 1996, "On State Regulation and Control of Cross-border Shipment of Hazardous Waste") in accordance with the Basel Convention. Regarding importation of

pharmaceuticals, foreign-owned firms enjoyed the same rights as Russian firms in the Russian Federation and could obtain an activity licence under the same scheme. Foreign-owned firms which were not established in the Russian Federation should have their own representative office[7] in the Russian Federation. If this was the case, these firms could also apply for an import licence.

74. Under Article 21 of Federal Law No. 86-FZ of 22 June 1998 "On Medicines" sole domestic and foreign practitioners were not permitted to export pharmaceuticals to the Russian Federation. In accordance with the same law, imports of medicines into Russian Federation were only allowed to enterprises that produced medicines; wholesale traders of medicines; academic research organizations; institutions, laboratories for development, study and control of quality, effectiveness and safety of medicines, subject to permission of the federal medicine control agency for import of the relevant consignment of medicines; foreign enterprises producing medicines and foreign wholesale traders of medicines provided they had representative offices in Russia. All applicants for a licence to import medicines had to undergo an uniform procedure as provided under Government Resolution No. 1539 of 25 December 1998 "On Import into and Export from the Russian Federation of Medicines and Pharmaceutical Substances".

75. Members of the Working Party noted that the Russian Federation had confirmed the elimination of the state-trading monopoly and had described the nature of the requirements placed on individuals and firms that wish to import and export. They felt however that more information was still required on laws relating to the registration of enterprises and the regulation of trading activity which were being currently drafted. Some members requested an outline describing how these laws would make registration requirements for the right to import and export transparent and non-discriminatory. These members further requested information on whether the requirement that import and export contracts be registered would be restored. More information was also needed concerning the requirements imposed by subjects of the Russian Federation on legal or natural persons that might affect their right to engage in importation or exportation of goods.

76. Some members expressed concern over the restrictive consequences of the current system of activity licensing for the sale of alcoholic beverages. Information was requested on the Russian Federation's intention to introduce new legislation in this area. Noting that the fees charged for the right to trade in imported alcoholic beverages greatly exceeded those charged for domestic distribution or export, these members felt that more detail was also required on this and on any other activity licensing fees associated with importation.

[7] In accordance with Article 33 of the Civil Code of the Russian Federation the representative office is a detached division of legal entity, located elsewhere than its business address, which represents and protects the interests of such legal entity.

77. In response, the representative of the Russian Federation noted that, in order to improve the system of import licensing in the Russian Federation, the State Duma of the Federal Assembly of the Russian Federation had passed in the first reading and was currently preparing for the second reading a draft federal law "On Amending the Federal Law On Charges for Issuance of Licenses and Right for Production and Marketing of Ethyl Alcohol, Alcohol Containing and Other Alcoholic Products". This draft law was designed to provide a unified rate of the licensing charge (500 minimum wages) for the right of production, storage and sale of alcoholic products, the right to export ethyl alcohol and alcoholic products and the right to purchase ethyl alcohol, alcohol-containing and alcoholic products for import, storage and wholesale.

78. Registration requirements for export contracts had been originally introduced by Government Resolution No. 758 of 1 July 1994 "On Measures to Improve the State Regulation of Export of Goods and Services", and had now been repealed by Government Resolution No. 300 of 21 March 1996 "On Recognizing as Invalidated Certain Decisions of the Government of the Russian Federation on the Issue of Registering Contracts in the Export of Commodities". Registration of import contracts had never been practiced in the Russian Federation. Thus the Russian Federation did not maintain any special registry of import or export contracts. He also confirmed that his authorities had no plans to restore such registration in any form. He further stated that the subjects of the Russian Federation had no rights to impose requirements on legal or natural persons that might affect their rights to engage in importation or exportation of goods.

79. Some members requested further clarification on whether the Russian Federation maintained any restrictions or requirements other than tariffs on the importation of precious metals and stones, notably whether imports of these products were also restricted by licensing, or whether it was necessary to import them through specific customs posts as was the case with diamond exports. These members also expressed concerns in relation to export requirements for precious stones and metals. Some members requested further information on the terms and structure for activity licensing for pharmaceuticals, particularly in regards to any requirements for imports that might differ from those applied to domestic production. These members also requested the Russian Federation to confirm that the ability to request an activity licence for trade in pharmaceuticals was reserved to Russian Federation firms and to explain what that meant in practice for foreign-owned firms in the Russian Federation, foreign exporting firms not established in the Russian Federation, and domestic or foreign practitioners seeking to export pharmaceuticals to the Russian Federation.

80. [Some members expected that the Russian Federation would undertake the following commitments in this area: the Russian Federation would guarantee that no restrictions would be maintained on the right to trade in goods except as would be consistent with WTO provisions and that all laws and regulations relating to trading rights would be applied in a manner consistent with

relevant WTO obligations. Specifically, the Russian Federation should confirm that no restrictions would be maintained on the rights of individuals and enterprises, including those with foreign participation, to import and export goods into the customs territory of the Russian Federation except as would be consistent with provisions of the WTO Agreement. Nor would individuals and firms be restricted in their ability to import and export based on their registered scope of business. The criteria for registration and enrolment in the State Register of legal persons would be generally applicable and published in the Official Gazette, along with any further changes. Without prejudice to other relevant provisions of the WTO Agreement, the Russian Federation should ensure that any laws and regulations relating to the right to trade in goods would not restrict imports of goods in violation of the general prohibition on quantitative restrictions under Article XI:1 of GATT 1994, nor should they discriminate against imported goods in violation of the non-discriminatory provisions under Article III:4 of GATT 1994. Any associated fees, taxes and charges should also be limited to the approximate cost of services rendered and their application should not lead to discrimination in favour of like domestic products. The Russian Federation would ensure full national treatment in respect of all laws, regulations and requirements concerning internal sale, offering for sale, purchase, transportation, distribution or use of imported alcoholic beverages and ethyl alcohol.]

Import Regulations

- **Customs Regulations and Customs Tariff**

81. The representative of the Russian Federation recalled that the Russian Federation had been an active member of the World Customs Organization (WCO) even before gaining full membership to it on 8 July 1993. The Russian Federation had also joined the International Convention on the Harmonized Commodity Description and Coding System on 1 January 1997. Federal Law No. 5003-1 of 21 May 1993 "On Customs Tariff" (as amended 7 August, 25 November and 27 December 1995, 5 February 1997, 10 February 1999, 4 May 1999 and 27 May 2000) and the Customs Code currently constituted the legal framework for the customs regime of the Russian Federation. The right of appeal against decisions of Customs was ensured, inter alia, by 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 Agreements.

82. Members of the Working Party stressed that pending enactment of the new Customs Code and Chapter 27 of the new Tax Code, it was not possible to assess whether the provisions contained therein would be in conformity with WTO requirements. They considered that the Russian Federation should provide a description of changes to customs regulations, procedures and practices which would follow the enactment of the new Customs Code and Chapter 27 of the Tax Code, together with copies

in a WTO working language of all relevant implementing instruments in this area. Noting that there appeared to be proposals before the Duma for revising Federal Law No. 5003-1 of 21 May 1993 on Customs Tariff (amendments of 7 August, 25 November, 27 December 1995, 5 February 1997, 10 February, 4 May 1999 and 27 May 2000, several members further asked the Russian Federation to explain how these proposals related to the new Customs Code and Chapter 27 of the new Tax Code.

83. Some members expressed concern regarding a possible inconsistency in the application of relevant provisions by regional customs authorities and stressed the need to ensure uniform and transparent implementation of customs regulations throughout the entire territory of the Russian Federation. Many members also sought a clarification on Customs Order No. 25 of 25 January 2001 and other related orders of the SCC which limited the numbers of customs land checkpoints for goods imported from 14 countries, including a number of ASEAN countries. Noting that ten out of these 14 countries were WTO members, these members requested a commitment from the Russian Federation that this particular order and other related orders would be repelled and would not be introduced in the future.

84. In response, the representative of the Russian Federation confirmed that Customs Order No. 25 of 25 January 2001 was abolished by virtue of Customs Order No. 517 of 24 May 2002 . He reiterated that his Government did not intend to submit draft laws for member's scrutiny as it was not required under the WTO Agreements. But for the sake of transparency he explained that the new draft Customs Code of the Russian Federation was based on generally accepted international rules, including the Kyoto Convention 2000. To prevent that customs authorities could use their own discretion in decision-making, the vast majority of provisions of the draft Customs Code were of direct application. To ensure transparency, the draft Custom Code provided that the authorities concerned should publish legal acts of customs regulations in the official publications. The draft Customs Code contained detailed provisions related to WTO rules and disciplines in particular those to protect intellectual property rights, and was drafted in a manner to comply with the Agreement on Rules of Origin. The draft contained improved provisions on right of appeal so as to ensure compliance of customs administrations and their officers with legislative requirements in their decision-making, action or inaction. Right of appeal might be exercised through lodging a complaint with the superior customs administrations and/or through judicial procedures. Draft Chapter 27 of the new Tax Code contained the procedures of valuation for customs purposes and it was drafted in a manner to comply with Article VII of GATT 1994 and the WTO Customs Valuation Agreement, including the vast majority of interpretive notes annexed to the Agreement. The procedures of valuation for customs purposes were also based on the principles of the WTO Customs Valuation Agreement. The draft envisaged that the primary basis for customs value was the transaction value. The application of other methods would be in full conformity with the Customs Valuation Agreement.

In anticipation of further requests from members, the representative of the Russian Federation stated that the interpretative notes annexed to the Customs Valuation Agreement not included in draft Chapter 27 of the Tax Code would be reflected in another regulatory act.

- **Ordinary Customs Duties**

85. The representative of the Russian Federation noted that the structure of the Russian Federation's customs tariffs was regulated by Federal Law No. Law No. 5003-1 of 21 May 1993 "On Customs Tariff" (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 by the Governmental Commission on Customs and Tariff Policy and Trade Remedies Measures, also taking into account the Russian Federation' s international commitments.

86. Government Resolution No. 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 entered into force on 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; 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 ranged from 0 to 30 per cent, except for ethyl alcohol and beer.

87. Tariff rates (Tables 8 and 9) 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 Government Resolution No. 148 of 22 February 2000 (as amended on 27 November 2000) and 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 the Russian Federation did not apply MFN treatment amounted to the double of MFN rates. The import customs duties applicable to products originating from countries enjoying the Russian Federation' s GSP scheme 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).

88. Government Resolution No. 886 of 27 November 2000 substantially revised downwards and leveled out the customs duties (in approximately 3,500 tariff positions out of 11,032). As a result, 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 liberalization of imports of modern technologies and machinery into the Russian Federation, countering illegal practices at customs and improving the effectiveness of customs payment collection.

89. He confirmed that there were no tariffs for non-agricultural products whose *ad valorem* equivalent was higher than 30 per cent and that future GSP schemes would continue to provide recipients a tariff rate equal to 75 per cent of the corresponding MFN rate. Following the request of some members, he stated that that a new commodity description and classification system based on HS 2002 which entered into force on 1 January 2002 was available in the WTO Secretariat in the English language in electronic format. He also stated that, on request, members could have the lists of the Russian Federation's MFN partners and GSP recipients.

90. Noting the above statements, some members asked the Russian Federation to clarify whether the expected changes to the customs legislation would also exclude the possibility to apply double MFN tariff rates to goods originating from WTO members, thereby conforming Article I of GATT 1994.

- **Tariff Quotas**

91. Many members expressed concerns regarding the Russian Federation's intention to have recourse to TRQs, particularly on products currently subject to tariffs only. These members considered that the introduction of new TRQs would be a step backward from trade liberalization that should be expected by acceding to the WTO. They requested a description of the current and prospective legal authority for auctioning licenses and quotas in the Russian Federation and noted that any method of allocating quotas or licenses should be consistent with WTO provisions, notably Articles II, XI, and XIII of GATT 1994, the Agreement on Import Licensing Procedures and Article 4 of the Agreement on Agriculture. Several members also stressed that, if TRQs were to be introduced, the Russian Federation must ensure that these TRQs would preserve existing levels of trade, provide annual growth and would be limited in time. In any case, full details of tariff quota administration measures should be provided in order to assess their WTO conformity.

92. The representative of the Russian Federation replied that Federal Law No. Law No. 5003-1 of 21 May 1993 "On Customs Tariff" provided the legal framework for the establishment of tariff rate quotas as a part of free trade agreements and the 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 currently in place (on raw sugar originating from countries enjoying the Russian Federation's GSP scheme) had been opened under Government Resolutions No. 572 of

28 July 2000 "On the Tariff Regulation of Raw Sugar Imports", No. 622 of 23 August 2001 "On the Tariff Regulation of the Import of Raw Sugar and White Sugar in 2002" and No. 536 of 15 July 2002 "On the Tariff Regulation of the Import of Raw Sugar and White Sugar in 2002". TRQs on raw sugar had been allocated by auction among companies. The auction was open to all Russian participants of foreign economic activities. This method of allocating TRQs was transparent, based on market principles and in line with 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 due for the service of conducting the auction. He confirmed that the quota fill rate was 100 per cent and that the fees paid for the auctions was from to 15-50 euro/t.

93. Several members stated that to the extent that the auction charges exceed the Russian Federation's tariff bindings, they would be inconsistent with the Russian Federation's obligations under Article II of the GATT, and allocation of quotas without regard to Articles XI and XIII would also violate WTO provisions. These members sought a commitment from the Russian Federation that any fees charges or revenues collected must not exceed the bound rate of duty established for the product concerned. Some members asked the Russian Federation to provide further information of the fees paid on raw sugar auctions of the TRQs under Government Resolutions No. 572 of 27 July 2000 "On the Tariff Regulation of Raw Sugar Imports" and No. 622 of 23 August 2001 "On the Tariff Regulation of the Import of Raw Sugar and White Sugar in 2002", as well as the fill rate. Some members also maintained that the auctioning method of TRQs was not fully consistent with GATT 1994 and discriminated against those members that did not provide export subsidies.

94. Noting that Federal Law No. 5003-1 of 21 May 1993 "On Customs Tariff" prohibited access under TRQs from being granted to products originating from MFN suppliers, some members requested confirmation of whether the Russian Federation also intended to provide legal authorization for the use of TRQs to regulate general imports or if this would be limited to GSP imports. These members required a more precise understanding of the methods of allocation and other aspects of the system that the Russian Federation indented to adopt in this field.

95. The representative of the Russian Federation confirmed that his Government intended to provide legal authorization for the use of TRQs to regulate imports other that imports under the GSP scheme. He also noted that the allocation of TRQs by auction was a common practice and used by many WTO Members. The Federal Law "On Customs Tariff" would be replaced by Chapter 27 of the Tax Code in this respect. Regarding methods of allocation to be used in the future he expected that the principle "first come – first served" would remain predominant. He further stated that the amount of fees paid on raw sugar auctions of TRQs was US$214 million in 2000 and US$185 million in 2001, while the fill rate was 100 per cent for both years.

96. Some members requested a clarification on whether the notion that only "Russian participants if foreign economic activities which could participate in TRQ auctions included foreign-owned firms established as Russian juridical persons. These members also requested a confirmation that there were no eligibility requirements to participate in TRQ auctions that would favour local production, such as requirements to enter into contracts to purchase domestic product or to provide domestic producers with inputs. The representative of the Russian Federation replied that the notion of "Russian participants of foreign economic activities" included foreign-owned firms established as Russian legal persons. He also confirmed that there were no eligibility requirements to participate in TRQ auctions that would favour local production.

- **Tariff Exemptions**

97. The representative of the Russian Federation noted that exemptions from the payment of customs duty could be granted only in accordance with the provisions of Federal Law No. 5003-1 of 21 May 1993 "On Customs Tariff". Article 35 of this Law established the list of goods which were 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 the Russian Federation 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 said 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.

- **Other Duties and Charges**

98. The representative of the Russian Federation stated that the Russian Federation did not at present apply any duties and charges (ODCs) within the meaning of Article II:1(b) of GATT 1994. Noting this statement, several members asked the Russian Federation to bind at zero all such ODCs in its Schedule of Concessions and Commitments on Goods.

99. [The representative of the Russian Federation confirmed that the Russian Federation would not apply other duties and charges on imports other than ordinary customs duties from the date of accession, and that any such charges applied to imports after accession would be in accordance with WTO provisions. He further confirmed that the Russian Federation would not list any other charges in its Schedule under Article II:1(b) of GATT 1994, binding such charges at zero.]

- **Fees and Charges for Services Rendered**

100. The representative of the Russian Federation said that fees for customs services (Table 10) were established in accordance with 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.

101. Several members noted that although the information provided above was helpful, a description on how the Russian Federation intended to modify its current regime was necessary as the Russian Federation had indicated its intention to revise its import fee structure and that this was provided for in the new draft "Customs Code". Noting that under the present Code, fees charged for customs clearance were calculated on an *ad valorem* basis, these members questioned how they would relate to the cost of services rendered and stressed their expectation that the Russian Federation should meet the relevant obligations provided for in GATT 1994.

102. The representative of the Russian Federation stated that according to the new draft Customs Code fees and charges levied for customs services related to importation or exportation would be reduced to two types: a customs charge for customs clearance; and a customs charge for customs escort of goods. The fees charged would be calculated as fixed sums, corresponding to the value of rendered service.

103. He further noted that the stamp tax applicable (Table 11) for the processing of imports or exports by customs and for other purposes related to trade was established in accordance with Federal Law No. 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 authorized for this purpose.

104. Regarding stamp taxes, several members questioned again how an *ad valorem* stamp tax for the attestation of agency agreements and for accepting money and securities in deposit could relate to the cost of the service rendered. They also requested clarification on whether these taxes applied in the act of importation or exportation, and what sorts of customs documents required a stamp tax. Regarding fees that were applied only to imports for requirements which would normally apply to both imported and domestic products, such as standards certification or vehicle taxes, these members also noted that these fees were not consistent with Article III of GATT 1994 and should be revised or eliminated prior to accession. Clarification was also requested regarding the nature of the services rendered by the additional customs charge for customs clearance, and on the precise meaning of

legally signification action "for performing other notary actions" or "for the performance of the technical work for the making of the documents".

105. In response, the representative of the Russian Federation said that pursuant to Law of the Russian Federation of 9 December 1991, No. 2005-1 "On State Duty", "legally significant actions" were the following actions forming grounds for levy of state duty:

- statements of claim and other claims and complaints filed with courts of general jurisdiction, arbitration courts and the Constitutional Court of the Russian Federation;
- notarial acts by notaries public employed by notary offices or duly authorized officials of executive authorities, local administrations and consular offices of the Russian Federation;
- state registration of vital records and other legally significant actions performed by vital statistics offices;
- issuance of documents by courts, institutions and agencies for consideration and issuance of documents associated with acquisition of Russian citizenship (national status) or denunciation thereof and performance of other legally significant actions.

106. No special consular fees connected with the 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 currently applied Customs Tariff approved on 29 June 1993 and 28 March 1994, as well as international treaties signed by the Russian Federation. Payments collected by consular offices of the Russian Federation for executing abroad 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.

107. Noting the statement above, some members expressed concern about the charging of fees for consular purposes (Table 12) at a lower rate from certain countries where the service was performed (the Baltic countries and CIS countries) as this practice would be in violation of Article I of GATT 1994 and should be eliminated prior to accession.

- **Other Fees**

108. Some members requested clarification on any possible discriminatory aspect involved in the application of port user fees between foreign and domestic users.

109. The representative of the Russian Federation said that the port fees used in commercial seaports (Tables 13(a) and 13(b)) of the Russian Federation had been approved by the Ministry of Transport on 21 July 1995. The port-charges include: tonnage, (to be collected for 1 cubic metre of vessel conventional capacity, separately for each fetching into the port and sailing from it), beaconnage (to be collected for 1 cubic metre of vessel conventional capacity upon each fetching into the port and its transit passing. Exempted from the light dues are vessels calling for refuge to perform an emergency repair and the vessels of group "D". Vessels of groups "E" and "G" are exempted from the beaconnage dues unless they perform cargo handling and operations of commercial nature at the port), canal dues (to be collected for 1 cubic metre of vessel conventional capacity upon each pass of canal in one direction), wharfage (to be collected for 1 cubic metre of vessel conventional capacity for each day of vessel being alongside. The wharfage dues are collected from vessels staying alongside the berth. For the vessels of groups "A", "B" and "H" wharfage dues are charged per 1 m^3 of the conventional volume of the vessel for each day of the vessel's stay alongside the berth. The time of stay at a berth is rounded off upward to one-half of the day. For the vessels of groups "C", "D", "E", "F" and "G" berth dues are charged per 1 m^3 of the conventional volume for each call), anchor dues (to be collected for 1 cubic metre of vessel conventional capacity for each hour of anchorage in the outer or inner harbour in excess of 12 hours. Incomplete hour of anchorage shall be considered as a complete hour of anchorage), ecological dues, pilotage dues, navigation dues. Port-charges were collected in commercial seaports of the Russian Federation, irrespective of their form of organization, legal status and pattern of ownership, from Russian and foreign vessels and floating facilities on the basis of non-discrimination principle.

110. [The representative of the Russian Federation confirmed that the Russian Federation would ensure that any fees and charges for services rendered listed in Tables […] or introduced in the future would only be applied in conformity with the relevant obligations of GATT 1994, and that any application of fees and charges by the Russian Federation for services rendered or in connection with importation or exportation would be in accordance with the relevant provisions of the WTO Agreement, in particular Articles VIII and X of GATT 1994, from the date of accession. He further confirmed that, after accession, information regarding the application and the level of any such fees, revenues collected and their use, would be provided to WTO Members upon request.]

Application of Internal Taxes on Imports

- Excise Taxes

111. The representative of the Russian Federation noted that excise taxes on certain products were differentiated between imported and domestically-produced goods until January 1997. Federal Law No. 12-FZ of 10 January 1997 "On Excise Tax" unified excise tax rates for imported and domestic

products. In pursuance of Chapter 22 ("Excise Tax") of the Tax Code (Federal Law No. 110-FZ of 24 July 2002 "On the Introduction of Chapter 22 Into Force"), 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 to respective tax rates were enumerated in Table 14.

112. Two categories of products only (natural gas and partly cigarettes) were subject to *ad valorem* rates. The tax base for calculating excise tax for those products was the selling price exclusive of VAT for domestic products and the sum of their customs value and the payable customs duty exclusive of VAT for the ad valorem part of excise tax for imported cigarettes. Natural gas imported to the Russian Federation was free from excise tax. 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. Products for which zero level excise tax was indicated were included in the list of excisable goods only for more effective state monitoring of their turnover. Excise taxes had been applied differently to Russian trade with CIS countries than to trade with non-CIS countries. But as from 1 July 2001, when Chapter 22 of the Tax Code entered into force, excise taxes were levied in a uniform manner based on the principle of country of destination.

113. Several members expressed appreciation for the comprehensive listing of excise taxes and other information on their application to domestic and imported goods. They noted that the differentiation of excise tax rates within specific categories of alcoholic beverage, e.g., for different types of beer, wine, and spirits, might have a *de facto* discriminatory effect on imports.

114. In response, the representative of the Russian Federation stated that differentiation of excise tax rates applied to specific categories of alcoholic beverages (beer, wine and spirit) was based on the principle of harmonizing the applied rate with the concentration of pure alcohol in those beverages and was not having a discriminatory effect on imports. For example, Russian produced wines (fortified wines) were subjected to the highest excise rates in comparison with imported wines (natural wines).

115. Noting that when excise taxes were collected on imports from CIS countries there was still a deduction from the charge for excise taxes applied in the exporting CIS country, some members maintained that this could violate Article I of GATT 1994. Noting further that differential rates of excise tax were levied on natural gas depending on whether it was sold in the Russian Federation for export to other CIS countries (15 per cent), or whether it was for export to other countries (30 per cent), some members felt that this practice should be brought in conformity with the WTO upon accession. Moreover, a more detailed clarification was needed on the national treatment implications of calculating excise taxes on imports on the customs value plus the total of customs

duties and levies payable, while the excise taxes on domestically produced goods were based on actual value only. [Furthermore, members sought a commitment that full conformity with WTO provisions should be ensured by the Russian Federation in the application of excise taxes as from the date of accession to the WTO.]

116. The representative of the Russian Federation replied that an *ad valorem* excise tax was used only for natural gas. The excise tax was not levied on natural gas imported to Russia. The excise tax established in the Russian Federation for natural gas was a natural rent royalty paid to the state by gas extracting companies. This rent made no influence either on the level of export prices for gas or on the export flows of gas. In this respect the existing procedure of levying the excise tax for natural gas was in compliance with WTO rules and disciplines. He also added that the *ad valorem* part of combined rate of excise tax for cigarettes was equal to one per cent. Thus the methodology of accruing the tax basis described in paragraph […] could not hamper imports.

- **Value Added Tax**

117. Some members requested confirmation that VAT was now applied in an uniform manner to all domestic and imported products and that from 1 July 2001 this was also the case with respect to CIS countries. Clarification was also requested on whether the same principle applied to imports and exports of energy products such as gas and oil. A member requested clarification concerning the different VAT treatment of ice-cream produced from milk and dairy products (10 per cent) and ice-cream produced from fruits and berries (20 per cent).

118. The representative of the Russian Federation replied that, in accordance with Chapter 21 of the Tax Code (Federal Law No. 117-FZ of 5 August 2000 and Federal Law No. 118-FZ of 5 August 2000 "On Introduction of Part Two of the Tax Code") 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 related to bilateral trade with Belarus, where VAT was levied on the country of origin. As for the exportation of crude oil and natural gas, VAT would be levied on the country of destination also with respect to bilateral trade with CIS country from the year 2004 or 2005.

119. Noting that that the application of domestic taxes to Belarus was still based on the country of origin, some members asked the Russian Federation to indicate how, and in what time-frame, the Russian Federation intended to proceed to convert its taxation system with Belarus. These members also asked a list, by HS tariff lines, of oil and gas import items for which the level of application of VAT continued to be based on the country of origin. They further requested the Russian Federation

to provide a more precise timetable for unifying application of VAT on all products on the basis of the country of destination.

120. In response, the representative of the Russian Federation stated that the Russian Federation and Belarus were the parties of the bilateral Treaty "On the Creation of the Union State" of 8 December 1999 leading, *inter alia*, to the formation of a unique economic space based on the unified legislation. The work was being done to address the issue of taxation within this unique economic space. He further stated that the only difference in the exportation of crude oil and natural gas (HS 2709 and 2711.21, respectively) to CIS countries in comparison with the exportation of these products to other countries was that VAT was not reimbursed to Russian exporters in the case of export to CIS countries.

121. He noted that VAT was levied at a single rate of 20 per cent with some exemptions listed in Tables 15(a) and 15(b). All these exemptions were applied in non-discriminatory manner both to domestic output and imports of similar products. Also exempt from VAT were 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 also included in the tax base.

122. Referring to the list of VAT exemptions listed in Table 15(a), some members noted that a reference was made therein that 'sale of products of own manufacture of organizations engaged in the production of agricultural products which generate 70 per cent and more of the overall share of incomes from the sale in the total sum of their incomes' were exempted from VAT. They asked to know which were the products in question and whether imports of similar products did also qualify for exemption and, more generally, how the exemption of domestic agricultural output from VAT could be justified under Article III:2 of GATT 1994. Noting that products of sea fishery caught and/or produced by fishing enterprises were also VAT exempted, these members further inquired whether this exemption was extended to imported fish products as well. Some members also inquired whether the provision for VAT exemption for certain agricultural producers, or producers in any other sector, also applied where output was bartered for goods or services or used as payment in kind for discharging financial obligations to financial institutions or other creditors. If that was the case, these members asked full details on the legal basis for such goods and services being deemed to satisfy the relevant criteria for VAT exemption.

123. The representative of the Russian Federation replied that, in the case of sea fishery, VAT exemption resulted from the fact that sea fishery caught by Russian fishing enterprises was Russian fish and, as such, its delivery into the customs territory of the Russian Federation did no constitute an

importation. These goods were thus not subject to VAT when imported into the customs territory of the Russian Federation but were subject to VAT when the first transaction was performed.

124. In response to the concerns of members of the Working Party concerning VAT exemption for agricultural products of some producers, he further explained that these products substituted payments for the job of natural persons employed by those producers. Such a form of payments was used in agricultural sector by entities in critical situation with no actual money either to pay salaries or VAT when paying for the job of employed persons by agricultural products. There were few such cases. The agricultural products at issue were unprocessed products of plant growing and cattle breeding (meat, fish, eggs, vegetables, fruits etc.). This provision was not applied to the cases when the output of the above mentioned producers was bartered for goods or services, or used as payment to reimburse financial obligations to financial institutions or other creditors.

125. [The representative of the Russian Federation confirmed that from the date of accession, the Russian Federation would apply its domestic taxes, including VAT, excise taxes, and other taxes applied to goods including those listed in Table […] and paragraphs […], would be applied in compliance with Articles I and III of GATT 1994, in a non-discriminatory manner to imports regardless of country of origin and to domestically produced goods, without exceptions, regardless of regional destination of goods.]

Quantitative Import Restrictions, including Prohibitions and Quotas

126. The representative of the Russian Federation confirmed that the Russian Federation did not maintain any quantitative import restrictions, prohibitions or quotas within the purview of Article XI of GATT 1994. He noted that the only exception had been the temporary ban on importation of ethyl alcohol enforced under Federal Law No. 61-FZ of 31 March 1999 "On Temporary Ban on Ethyl Alcohol Imports" which was terminated on 31 December 2001.

127. He further said that Article 13 of Federal Law No. 173-FZ of 22 November 1995 "On State Regulation of Production and Turnover of Ethyl Alcohol, Alcoholic and Alcohol-Containing Products" restricted imports of distilled spirits to no more than 10 per cent of alcohol sales in the Russian Federation. Within this quota, not less than 60 per cent of imports must contain 15 per cent of alcohol or less. He noted, however, that the provisions of that Article had never been implemented.

128. Noting the Russian Federation's statement concerning the lifting of the temporary ban on imports of ethyl alcohol, some members requested clarification on whether the Russian authorities considered that imports of ethyl alcohol could still be affected by Government Resolution No. 1292 of 3 November 1998 "On the Approval of Rules for the Issuance of Quotas for the Manufacture of Ethyl Alcohol from All Types and Special Permits for Its Delivery" (date to be supplied). As this

Resolution seemed to contemplate placing quotas on deliveries by domestic producers, the issue remained as to whether the Russian Federation eventually planned to place quotas on imports. As for the reference to a law in force, but not applied, that restricted imports of distilled spirits to no more that 10 per cent of the Russian market and stipulated that within this quota at least 60 per cent of imports must contain 15 per cent of alcohol or less, some members requested a clarification as to whether the Russian authorities actually intended to repeal this law.

129. In response, the representative of the Russian Federation stated that the rules of putting quotas on production of ethyl alcohol from all types of raw materials, methylated spirits and alcohol-containing solutions had been recognised as invalid and inapplicable by Resolution of the Supreme Court of the Russian Federation of 16 May 2001 No. GKPI 2001-783 "On Recognition as Invalid and Inapplicable the Rules on Putting Quotas on Production of Ethyl Alcohol and Alcohol-Containing Solution, Approved by the Resolution of the Government of the Russian Federation". The rules of issuance of special permits for delivery (release) of ethyl alcohol produced from all types of raw materials, methylated spirits and alcohol-containing solutions had been recognised as invalid and inapplicable by Resolution of the Supreme Court of the Russian Federation of 23 November 2000 No. GKPI 00-1251 "On Recognition as Invalid and Inapplicable the Rules of Issuance of Special Permits for Delivery (Release) of Ethyl Alcohol Produced from All Types of Raw Materials, Methylated Spirits and Alcohol-Containing Solutions, Approved by the Resolution of the Government of the Russian Federation". No quotas on imported alcoholic products was planned in future. He further confirmed that the provisions of Article 13 of Federal Law No. 171-FZ of 22 November 1995 "On State Regulation of Production and Turnover of Ethyl Alcohol, Alcoholic and Alcohol-Containing Products" had never been applied and no agency in the Russian Federation was appointed to oversee its implementation. Federal Law No. 171-FZ of 22 November 1995 was going to be amended. The proposals on such amendments was being drafted contemplating abandonment of export and import licensing of this type of activity by the Ministry of Taxes and Levies of the Russian Federation.

Import Licensing Systems

130. The representative of the Russian Federation stated that his country's import licensing system (Tables 16(a) and 16(b)) was established in Article 19 of Federal Law No. 157-FZ of 13 October 1995 "On the State Regulation of Foreign Trade Activities". Articles 12 and 15 of this law stipulated that procedures for the importation of precious stones, precious metals, and nuclear materials should be established by Presidential Decrees, while procedures for the importation of goods affecting the Russian Federation's national security interests and for the fulfillment of its international agreements were under the responsibility of the Government of the Russian Federation. Government Resolution No. 1299 of 1 October 1996 "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 in the Russian Federation" (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 GATT 1994 and the Agreement on Import Licensing Procedures.

131. The purpose of the licensing regime was to monitor and control imports of goods which, for various reasons, were classified as sensitive for the Russian Federation and the international community. Import licenses in force were justifiable under Articles XX and XXI of GATT 1994 and the corresponding provisions of the WTO Agreement on Import Licensing Procedures as, in accordance with Federal Law No. 157-FZ, licenses were required for the purpose of fulfilling international agreements; ensuring state security; the protection of human, animal and plant health; the protection of the environment; and the maintenance of public morals. Licenses were generally issued by the Ministry for Economic Development and Trade. In the case of weapons and ammunitions licenses were issued by the Ministry of Defense. The licensing regime applied to imports from all countries, including imports from CIS countries.

132. Several members of the Working Party expressed concern regarding the Russian Federation's statement that a justification to support the application of non-automatic import licenses for products listed in Table 16(a) might be found under Article XX of GATT 1994. These members felt that more explanation was necessary to understand how the provisions in the chapeau of Article XX would be met. They noted that, while import licensing might be an appropriate mechanism to administer certain controls, the justification for these controls, as well as the specifics of the import licensing procedures used to administered them, needed in all cases to be fully in accordance to WTO provisions, including those on non-discrimination. For example, some members noted that pharmaceutical licensing requirements were extremely burdensome and constituted a significant problems for their exporters. A major obstacle was that pharmaceuticals had to be re-registered periodically, e.g. once every four years, and this re-registration was not automatic, often resulting in firms losing their current licence and being unable to import products for a period of time. In addition, the Ministry of Health processing of the application was often slow and occasionally a barrier to receipt of the permit. Some members argued that the prior authorizations required for importation of goods subject to Hygienic Assessment and Mandatory Certification could act as disguised barriers to trade or might not be applied uniformly to imports and domestic output. Some members asked more detail information on how the Russian authorities considered that each of the requirements of Article 1 and 3 of the Agreement on Import Licensing Procedures had been met in relation to non-automatic import licensing in the administration of its TRQ for raw sugar (HS 1701.11).

133. In response, the Representative of the Russian Federation said that the Russian Federation 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. Import licenses for glucose syrup had been of a temporary surveillance character, issued to gather trade data. In the case of import licensing for strong alcoholic beverages and pharmaceutical products, he noted that the applicant should have an activity licence. Regarding the importation of raw sugar under TRQ scheme only the winners of the auction could be granted a licence. All other participants in this foreign trade activity could import raw sugar without any licence but paying the MFN duty on it.

134. He added that Government Resolution No. 1580 "On the Introduction of Amendments and Addenda to the Regulations on the Procedure for Licensing the Export and Import of Goods (Works, Services) in the Russian Federation" that enforced import or export licensing had been issued on 29 December 1998, and after that the list of goods subject to import or export licence regime had been amended on several occasions with a view to minimizing the number of products concerned. The most recent Decision No. 560 of 26 July 2001 "On the Abolishment of the Licensing of the Import of White Sugar to the Russian Federation" removed white sugar from the list of products requiring an import license. Licence applications were submitted to two administrative bodies only. The amount and type of information to be submitted was stipulated in Government Resolution No. 1299 of 31 October 1996 which described the procedures for application, and contained copy of the 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 the 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.

135. Several members took issue with the Russian Federation's stated intention of not limiting the quantity and value of imports, except as provided for in international conventions such as the Montreal Protocol or Basel Convention as the current application of licensing requirements to products such as pharmaceuticals, sugar, alcoholic beverages, precious stones and metals clearly restricted import. They requested the Russian Federation to explain how these restrictions would be modified or eliminated to meet WTO requirements.

136. Noting that for alcoholic beverages, import licenses were only issued where the applicant already had an activity licence, some members felt that additional explanation was necessary on the rationale for this apparent double requirement. They also required information on the number of licenses issued every year and on how many of these were currently in force. These members expected the Russian Federation to make a commitment that any import licenses on ethyl alcohol, alcoholic drinks and pharmaceutical products should be granted automatically on the basis of a regime compatible with WTO requirements, including Article 2 of the WTO Agreement on Import Licensing Procedures. Some members noted their understanding that activity licensing for precious stones and metals had been eliminated on 11 February 2001 by Federal Law No. 128-FZ.

137. Regarding Government Resolution No. 1539 "On the importation in and the exportation from the Russian Federation of Medicaments and Pharmaceutical Substances", some members indicated that Paragraph 2 of this resolution appeared to suggest that foreign manufactures must have offices in the Russian Federation in order to obtain an import license. They requested clarification as to whether this would imply that foreign manufacturers of pharmaceuticals should have an office in the Russian Federation to obtain a license to import, and noted that in this case such a requirement would be WTO inconsistent with WTO provisions. In addition, they asked the Russian Federation to elaborate on the purpose of these requirements, particularly in the case of licensing products such as flavourings and dual use precursor chemicals, and on whether they require the examination of every contract to import.

138. Noting further that pharmaceutical exporters had expressed concern over certain Russian import licensing requirements (for instance if the molecule unique to the pharmaceutical had not changed periodic renewal of licenses appeared unnecessary and could be expensive and burdensome to industry), some members asked whether such requirements were equally applied or not to similar domestic products, as they could constitute a violation of Article III of GATT 1994. Noting also that some pharmaceutical exporters had expressed concern that the administration of licenses at MOH and MEDT did not presently meet WTO requirements such as transparency, fees for services rendered, processing within a reasonable timeframe and forbearance on minor documentation errors, these members requested clarification on the steps that the Russian Federation intended to take to ensure that the administration of import licenses would conform to WTO requirements. In this regard, some members asked the Russian Federation to explain how the 0.05 per cent administrative fee charged by the MOH for issuing permits to import pharmaceutical products was consistent with the requirements of Article VIII of GATT 1994.

139. Some members requested additional clarification on the status of any legislative initiative in the Russian Federation which could be designed to restrict imports of pharmaceuticals having domestic analogues. These members felt that, if adopted, this legislation could be inconsistent with

the provisions of Articles III and XI of GATT 1994. They asked the Russian Federation to confirm that activity licenses would be made available to all registered companies (domestic or foreign) which satisfied government regulatory criteria. They noted that this would not prevent the Russian Federation from operating state-trading enterprises or applying controls on imports and exports for example for purposes of human health, as long as these were applied in a manner consistent with relevant WTO obligations. Noting further that the Russian Federation had acknowledged that the current law concerning pharmaceuticals (Federal Law No. 86 "On medicines" of 22 June 1998) was inconsistent with the new draft Foreign Trade and Import/Export Licensing Laws, some members expected that this law would be amended or repealed to ensure WTO conformity by the date of accession.

140. The representative of the Russian Federation replied that there were no plans in the Russian Federation to introduce new legislative initiative which could be designed to restrict imports of pharmaceuticals having domestic analogues. Activity licences were made available to all registered companies (domestic or foreign) which satisfied government regulatory criteria. Moreover, if a foreign company was not registered it could nevertheless get the required import licence if it had a representation office in the Russian Federation. He noted that imports of pharmaceuticals to the Russian Federation grew in 1993-2002. In the first half of 2002 they increased by 22 per cent. Thus, the licensing system existing in the Russian Federation did not hamper imports. He also added that, by way of legislative and regulatory development, work was currently being done to modify procedures for imports of pharmaceutical substances and medicines into the Russian Federation.

141. [The Representative of the Russian Federation confirmed that the Russian Federation would eliminate from the date of accession, and would not introduce, reintroduce or apply, quantitative restrictions on imports or other non-tariff measures such as quotas, bans, permits, prior authorization requirements, licensing requirements or other requirements or restrictions having equivalent effect that could not be justified under the provisions of the WTO Agreements. The import licensing regime from the date of accession would be fully in accordance with all relevant provisions of the WTO, including the Agreement on Import Licensing Procedures. He further confirmed that the legal authority of the Government of the Russian Federation to suspend imports or to apply licensing requirements that could be used to suspend, ban or otherwise restrict the quantity of trade would be applied from the date of accession in conformity with the requirements of the WTO, in particular Articles III, XI, XII, XIII, XIX, XX and XXI of GATT 1994, and the WTO Agreements on Agriculture, the Application of Sanitary and Phytosanitary Measures, Import Licensing Procedures, Safeguards, Technical Barriers to Trade and the Understanding on Balance-of-payments Provisions of GATT 1994.]

- **Customs Valuation**

142. The representative of the Russian Federation stated that the basic provisions relating to customs valuation practices in the Russian Federation were contained in Federal Law No. 5003-1 of 21 May 1993 "On Customs Tariff" and Government Resolution 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 values were based on the provisions of the WTO Agreement on Implementation of Article VII of GATT 1994. All six methods of customs valuation applied were based on the provisions of Articles 1, 2, 3, 5, 6, 7 and 8 of that Agreement. Moreover, in line with the provisions of Article 17 of the same Agreement, the State Customs Committee of the Russian Federation (SCC) had been implementing a special technique of customs control which was aimed at preventing 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.

143. Members of the Working Party noted that specific issues of concern in this area included the use of de facto fixed import prices for some goods, the need to include more precise provisions for valuation of imports possibly involving related parties, and the inclusion of the Interpretative Notes to the Agreement in legal text. They reiterated that any use of minimum or arbitrary valuation methods, even if intended to address a specific problem, must be eliminated prior to accession and replaced with procedures meeting WTO requirements.

144. Several members further noted that the legislation currently applied did not appear to fully implement Article 13 of the Agreement on the Implementation of Article VII of GATT 1994 which provided for a guarantee system allowing an importer to withdraw goods from customs pending final determination of the customs value if he provided sufficient guarantee. This was a critical provision as it ensured that customs procedures did not, in themselves, block imports. These members sought a confirmation that relevant Customs decisions, e.g., Orders and Letters, and the decisions of local customs authorities, that traders needed to be able to review and understand, would be made available for this purpose to traders and other interested parties promptly and at reasonable cost. Information was also required on how SCC and its regional offices, published and/or made available their rulings and other information for importers and exporters.

145. In response, the representative of the Russian Federation stated that the procedure for publication and making effective regulatory legal acts of the federal executive authorities (including SCC) was governed, in particular, by Presidential Decree No. 763 "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" of 23 May 1996; Government Resolution No. 1009 "On the Approval of the Rules for Preparing the Normative Legal

Acts of the Federal Bodies of the Executive Power and Their State Registration" of 13 August 1997; and the Order of the Ministry of Justice No. 217 "On the Approval of the Explanations on the Application of the Rules for the Preparation of Normative Legal Acts of the Federal Bodies of Executive Power and Their State Registration" of 14 July 1999;. Normative legal acts of SCC (e.g. acts with a binding effect throughout the territory of the Russian Federation) included only its regulations, orders, rules, instructions, dispositions and administrative decrees. Briefings, letters, telegrams, teletype letters were not considered as normative legal acts but acts which could only have recommendatory character and be used internally for the sole purpose of a state body. Normative legal acts of SCC were subject to mandatory publication with the exception of acts or parts thereof constituting state secrets or confidential information. Exhaustive lists of such information and data had been approved by various Presidential decrees. The official organs for publication were Rossijskaya Gazeta and the Bulletin of Regulatory Acts of Federal Bodies published by Yuridicheskaya Literatura publishing house of the President's Administration edited monthly since 1998. Regulatory legal acts of SCC subject to state registration with the Ministry of Justice became enforceable only after they had been registered and officially published.

146. Noting that the Russian Authorities had mentioned "a special technique of customs control" recently introduced by SCC in order to prevent "gross under-invoicing" of customs value, some members requested clarification on the modalities of application and legal justification of this special technique.

147. In response, the representative of the Russian Federation said that this technique entrusted the decision-making authority of the customs bodies with the task of checking 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 could be performed were specified and the operational procedures of the customs bodies at the various levels (custom-house, regional customs authority, SCC staff) defined. This technique was not meant to replace the applicable Russian legislation on customs valuation based on the use of the transaction value as a main method of customs valuation. This technique might also enable the customs authorities to more effectively respect the provisions of Article 13 of the WTO Agreement on Implementation of Article VII of GATT 1994 as it simplified the procedures and criteria used to decide whether the stated transaction value could have been understated. He also noted that further details on special techniques of customs control were contained in document WT/ACC/RUS/28.

148. He noted that actions by SCC could be appealed in accordance with the procedure established by the Customs Code of the Russian Federation, notably under Article 407 which required that the initial appeal should be filed with the higher customs administration of the Russian Federation, and Article 416 which stipulated that should this appeal be turned down, the importer could further appeal

to a court. The draft Chapter 27 of the Tax Code entitled "Customs Duty and Customs Charges" contained requirements ensuring consistency of customs valuation procedures with the provisions of the WTO Agreement on Implementation of Article VII of GATT 1994 and referred members of the Working Party to his statement in paragraph […].

149. Noting the reference to the new Tax Code and the Customs Code, several members again considered that further information on the proposed new legislation in this area was needed to enter into meaningful discussions on the extent to which further adjustments would be required to bring the Russian practices in full conformity with WTO requirements. They noted that existing procedures in the WTO Agreement that facilitate importation were important benefits for WTO Members and should be introduced by the Russian Federation upon accession.

150. [The representative of the Russian Federation confirmed that the Russian Federation would apply its customs valuation laws, regulations and practices in full conformity with the relevant WTO provisions, including the Agreement on Implementation of Article VII of GATT 1994, from the date of accession without recourse to any transition period. He further confirmed that, in determining the value of imports, the Russian Federation would apply the provisions on the Treatment of Interest Charges in Customs Value of Imported Goods and for the Valuation of Carrier Media Bearing Software for Data Processing Equipment. In accordance with these latter provisions, only the cost of the carrier medium itself would be accounted for in the customs value. He also confirmed that the Russian Federation had eliminated the use of minimum import prices and reference prices for determining the value of imports, and that the Russian Federation would not use any form of minimum value, reference price, or fixed valuation schedule establishing the value of imports and exports nor would apply duties and taxes from the date of accession. He added that, as an international agreement, the provisions of the WTO Agreement on the Implementation of Article VII of GATT 1994 would supersede domestic law after accession.]

- **Rules of Origin**

151. The representative of the Russian Federation stated that the Russian Federation was closely following the work of the World Customs Organization (WCO) and the WTO regarding harmonization for non-preferential rules of origin. In accordance with the provisions of Federal Law No. 5003-1 of 21 May 1993 "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 this Law. Goods originated from a country if they were wholly made in that country or substantially transformed in accordance with criteria set forth in the 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 Federal Law No. 5003-1 which related to the determination of the country of origin of goods, reflecting 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.

152. A customs authority might request a certificate of origin in order to confirm that the goods originated from a particular country. This applied, in particular with respect to goods originating from countries which benefit from the National GSP Scheme; to goods of which the importation 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 the Russian Federation 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 the Russian Federation; 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. In the event that the importer did not seek a preferential regime and the origin of goods could e confirmed by indirect indicators (marking, information on the origin contained in shipping documentation, etc.) there might be no mandatory requirement to submit a certificate of origin. In these cases, where MFN treatment existed with the exporting country, customs duties were charged at the Customs Tariff rates. Otherwise, customs duties were charged at double the rate.

153. The certificate of origin was expected to clearly prove that the goods in question were originating from the country of issuance, and should contain a written statement by the consignor that goods satisfied the respective criteria of origin, and written confirmation by the duly authorized body of the exporting country which had issued the certificate that the data indicated therein were true and correct. The certificate of origin should be submitted alongside the customs declaration and other documents presented for customs clearance. If 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 organizations 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. Failure to submit a duly executed certificate or data about the origin of goods would not constitute grounds for refusal to clear such goods across the customs border. Goods of which the origin had not been clearly established should be cleared after the payment of customs duties at the non-MFN rates of the Russian Customs Tariff.

154. The determination of the origin of goods originating from developing countries eligible for the system of preferences 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". As for the rules of origin within free trade agreements, the additional criteria of direct purchase were used. In respect of goods originating from CIS countries, he said that the Russian Federation adhered to the "Rules of Origin of Goods" approved by the Council of Heads of CIS Governments on 30 November 2000. The above rules were developed pursuant to the international practice of determination of origin.

155. Noting that the rules of origin provisions contained in Federal Law No. 5003-1 of 21 May 1993 "On Customs Tariff" did not appear to fully reflect the requirements of the WTO Agreement, several members of the Working Party felt it essential to ensure that the new draft Customs Code would provide revised rules of origin consistent with WTO provisions. These members also requested a clarification on whether these new laws would cover both preferential and non-preferential rules of origin. Noting further that goods of which the origin had not been clearly established were cleared through customs only after payment of customs duties at a rate double that in the Customs Tariff, some members asked the Russian Federation to clarify whether in such cases it was possible to submit a certificate of origin subsequent to customs clearance and, if origin was subsequently satisfactorily established, whether excess duties were then refunded. Some members also expressed concerns and requested a clarification regarding the consistency with the WTO Agreement on Rules of Origin of the Russian stated practice that "the country of origin could also be understood to mean a group of countries, customs unions, a region or part of a region, if this was necessary to identify them with a view to determining the origin of goods".

156. Several members indicated a particular interest in the provisions concerning the right to request an origin determination from the Government prior to shipment[, and requested a commitment that these provisions should be apply in line with the requirements of Article 2(h) and Annex II, paragraph 3(d) of the Agreement on Rules of Origin. In addition, they also indicated that Russia' s preferential rules of origin for CIS should fully reflect the interim rules of Annex II of the Agreement]. In this regard, these members requested clarification on whether the "Decision of the Council of the Governments of the Commonwealth of Independent States on the Rules for the Determination of a Country of Goods' Origin" of 24 September 1993 would currently meet these requirements[, and a commitment was sought as to their implementation upon accession]. Some members also asked a clarification on whether customs procedures did include any guarantee system which allowed release of goods pending determination of preferential origin and how did any associated rectification procedure (subsequent refund or recovery of customs duties) actually operate.

157. In response, the representative of the Russian Federation stated that Articles 393 to 396 of the currently applied Customs Code provided that customs authorities were entitled to issue a provisional decision with respect to the origin of goods, prior to import of these goods into the territory of the Russian Federation. To further develop these provisions, the State Customs Committee (SCC) had prepared and would shortly introduce a "Regulation on the procedure for taking preliminary decisions with respect to the country of origin of goods". He added that with regard to compliance with the requirements of Article 2(h) and Annex II, paragraph 3(d) of the Agreement on Rules of Origin, Articles 393 – 396 of the existing Customs Code of the Russian Federation provided for the possibility of preliminary (prior to shipment) origin determination by customs administrations. In furtherance of these Articles the State Customs Committee had prepared and would soon pass a Regulation on the procedure for origin determination prior to shipment.

158. [The representative of the Russian Federation confirmed that from the date of accession the Russian Federation's laws and regulations on rules of origin for both MFN and preferential trade would be applied in conformity with the provisions of the WTO Agreement on Rules of Origin, including the provisions of Annex II, and that these provisions would be established in the Russian Federation's legal framework. He further confirmed that, in line with the requirements of Article 2(h) and of Annex II, paragraph 3(d), both for non-preferential and preferential rules of origin, its customs authorities would provide an assessment of the origin of the import and outline the terms under which such an assessment would be provided upon the request of an exporter, importer or any person with a justifiable cause. According to the provisions of the WTO Agreement on Rules of Origin specified above, any request for such an assessment would be accepted even before trade in the goods concerned had began, and any such assessment would be binding for three years.]

- **Other Customs Formalities**

159. Several members stressed that the simplification of border controls and customs documentation necessary for importation in the Russian Federation would have a favorable impact through reduced costs and improved efficiency for Russian traders. In response, the representative of the Russian Federation stated that customs formalities in use in the Russian Federation were applied in accordance with the internationally accepted rules and were based on the Kyoto Convention.

160. Noting that his country was experiencing a huge volume of uncontrolled entry of smuggled goods from the Russian Federation which seriously injured its domestic market, a member asked the Russian authorities to clarify how they intended to fully control the Russian Federation's customs border in its entirety to prevent exit of smuggled goods from Russian territory continuing to damage small and vulnerable neighbouring countries. This member believed that import regulations imposed by the Russian Federation on imports of certain types of products (wine and wine products, petroleum

products, tobacco products, chicken meat etc.) which authorized only certain check-points often located away from the exporting countries, even in the case of neighbouring countries, to handle these goods, represented hidden impediments to trade. He therefore requested that the Russian Federation ensure these requirements be removed or significantly simplified.

161. One member of the Working Party said that his authorities had identified a number of measures that raised concerns in this area. Under State Customs Committee Orders No. 155 of 14 February 2001 "On the Procedure for Coordination of Decisions to Release Goods for Free Circulation" and No. 949 of 31 December 1999 on "Amending Order No. 258 of the SCC of 26 April 1996 (in the wording of Order No. 43 of the SCC of 31 January 1997 and with the Amendments and Additions of 10 March 2000) certain goods that qualified as high-risk (e.g. certain foodstuffs) were not released for free circulation without the specific approval of a higher customs authority. The process of obtaining such approval can last from one to two weeks. Under rules introduced in October 2001 by the North Western Customs Authority, shipments of "risk products" (a wide group of products including coffee, furniture, tyres and washing machines) were subject to burdensome documentary requirements, including in relationship to the ownership of the vehicle transporting the goods. The Russian Federation had also imposed restrictions that require customs clearance for certain goods, including textiles, clothing and electrical products, to take place only on border crossings with certain Asian countries as well as in ports and airports. Consequently such items originating in Asia could not longer be exported to the Russian Federation via this member's customs territory. As well as raising concerns in relation to conformity with WTO requirements on trade in transit, these decrees made it possible for companies exporting to the Russian Federation to use raw materials from the Far East for sub-contracting and subsequently created a barrier to business cooperation. The cumulative effect was that exporters to the Russian Federation face unpredictable, non-transparent, lengthy and generally burdensome customs procedures for imported goods at the point of entry into the Russian Federation's customs territory. Appropriate checks on imported goods might be called for to ensure that the Russian Federation's regulatory requirements were respected, but such measures should not be applied in a heavy-handed or non-transparent way. Standard WTO requirements of transparency, predictability and uniform application should apply. Another member said that his authorities had concerns with the practice used by the Russian Federation customs bodies in respect of the transport companies of this member. He noted that county-specific restrictive customs procedures were incompatible with WTO provisions, notably those in Articles I and VIII of GATT 1994. This member requested the Russian Federation to ensure that these and other country specific measures relating to customs procedures would be brought in fully conformity with the WTO requirements prior to accession.

162. The representative of the Russian Federation stated that measures mentioned above by some members had been taken in order to strengthen control over the truth and accuracy of data on products and transportation means crossing the customs border of the Russian Federation. He further pointed out that the other issue raised in paragraph […] related to trade facilitation which, depending on the results of the Fifth Ministerial Conference in 2003, might be subject to multilateral trade negotiations. In this respect the Russian Federation very closely followed the work of the WTO Goods Council on reviewing and, as appropriate, clarifying and improving relevant aspects of Articles V, VIII and X of GATT 1994. He also added that the commitments in this area could be defined after the completion of the above mentioned negotiations.

163. [Members of the Working Party stated that they expected the Russian Federation to undertake a commitment that upon accession all regulations, formalities and requirements connected with the importation of goods, including in relation to statistical control, customs clearance, documents, documentation and certification, inspection and analysis, and any changes to these regulations, formalities and requirements would be published sufficiently in advance and applied in a uniform, impartial and reasonable manner across the customs territory of the Russian Federation, consistent with WTO requirements, including Articles VIII and X of GATT 1994. Customs regulations, formalities and requirements should also be applied and operated in a fashion consistent with WTO requirements.] They noted that industry and exporters had regular experience of inconsistencies between administrative decisions taken by the Russian Federation authorities and the prevailing Russian Federation legislation. Moreover, inconsistencies appeared to exist between the general legislative framework and subsidiary regulations and administrative guidance issued by the Russian Federation government bodies (such as SCC). Furthermore, administrative orders issued by SCC were sometimes issued as 'secret orders' and their contents were not publicized to traders.

- **Pre-shipment Inspection**

164. [Noting that the Russian authorities had stated that the Russian Federation did not require any inspection services prior to shipment, members of the Working Party asked the Russian Federation to undertake a commitment indicating that if such services should be employed in the future, they would conform to WTO provisions in their operations, e.g., in the application of fees for services rendered, observance of other WTO requirements in customs processing, and in providing right of appeal to the Government.] While recognizing that the WTO Agreement did not preclude recourse to pre-shipment inspection subject to meeting a range of requirements, some members believed that this would be a backward step and expressed their preference to see the Russian Federation engaging customs reforms that would address problem areas.

165. [The representative of the Russian Federation confirmed that if a pre-shipment inspection system would be introduced in the future, it would be temporary. The Government of the Russian Federation would take responsibility to ensure that the operations of any pre-shipment inspection companies it retained would meet the requirements of the WTO Agreements, in particular the Agreements on Pre-shipment Inspection, Import Licensing Procedures, Customs Valuation, Sanitary and Phytosanitary Measures and Technical Barriers to Trade. He further confirmed that charges and fees applied by such companies would be consistent with Article VIII of GATT 1994, and that such system would comply with the due process and transparency requirements of the WTO Agreements, in particular Article X of GATT 1994, and the Agreement on the Implementation of Article VII of GATT 1994.]

- Trade Remedy Measures

166. The representative of the Russian Federation noted that Article 15 of Federal Law No. 63-FZ of 14 April 1998 "On Measures to Protect the Economic Interests of the Russian Federation with Respect to Foreign Trade in Goods" provided the legal framework to safeguard the country's balance of payment. The provisions in this Article were in full compliance with the provisions of Article XII of GATT 1994. In accordance with this law, and due to particular balance of payment difficulties, Government Resolution No. 791 of 17 July 1998 "On Introduction of an Additional Import Duty" had introduced a special import surcharge at a rate of 3 per cent *ad valorem* applied to all tariff items. Government Resolution No. 235 of 27 February 1999 had eliminated the import surcharge effectively from 1 March 1999.

167. Some members noted that the application of a tariff surcharge by the Russian Federation, based on the mentioned provisions of Federal Law No. 63-FZ, might not be consistent with WTO provisions. They asked additional information on the circumstances foreseen in Federal Law No. 63-FZ which would trigger the use of an import surcharge measure and the type of measures that could be used. Some members further asked whether import surcharges would be authorized under any of the new customs laws, notably the amendments to the Customs Tariff Law, the new Customs Code, and Chapter 27 of the new Tax Code. [In this regard, these members sought a commitment confirming that as from the date of accession the Russian Federation would apply any such measures, either for BOP or other purposes, in full conformity with WTO provisions.]

168. In response, the representative of the Russian Federation asked members to clarify their concerns with respect to any possible inconsistency of the provisions of Federal Law No. 63-FZ with WTO requirements. He stated that Article 15 of Federal Law No. 63-FZ of 14 April 1998 provided that in order to safeguard its balance of payments, the Government of the Russian Federation might decide, on the basis of a presentation by the CBR or upon a presentation by Federal executive bodies

in agreement with the CBR, to impose temporary restrictions on the importation of goods. Subject to international obligations of the Russian Federation, such restrictions should be implemented through import quotas or other measures, imposed on a non-discriminatory basis, for the period necessary to restore the balance-of-payments of the Russian Federation.

169. [Several members considered that, given the overlapping authorities of Federal Law No. 63-FZ and the Russian Federation's intention to establish separate specialized legislation on trade remedies, a commitment was required from the Russian Federation that the provisions of Federal Law No. 63-FZ that addressed trade remedies, including those applied for balance-of-payments purposes, would be replaced by other legal provisions that conform to relevant WTO provisions, in particular the WTO Agreements on Safeguards, Antidumping, and Subsidies and Countervailing Measures, and Article XII of GATT 1994 and the Understanding on the Balance of Payments Provisions of GATT 1994.]

170. The representative of the Russian Federation stated further that Federal Law No. 63-FZ of 14 April 1998 "On Measures to Protect the Economic Interests of the Russian Federation in Foreign Trade in Goods" established current 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, including measures for safeguarding the balance of payments. Under this law, anti-dumping, safeguards and countervailing measures could be introduced only following an investigation showing evidence of substantially increased, dumped or subsidized imports, serious or material injury to domestic industry or threat of such injury and causality between these developments. The measures could only be in place for a limited period of time necessary to eliminate the injury. Government Regulations Nos. 183 and 184 of 16 February 1999 "On the Peculiarities of the Determination of a Significant Damage to a Branch of the Russian Economy as a Result of Dumping Imports" and "On the Peculiarities of Determining a Significant Damage of a Branch of the Russian Economy when a Foreign State (an Alliance of Foreign States) Subsidizes Goods Imported to the Russian Federation as Well as the Amount of the Subsidy" and No. 274 of 11 March 1999 "On the Regulations for Conducting Investigations Prior to the Introduction of Special Protective Measures, Anti-Dumping Measures or Compensatory Measures" established procedures for investigations as well as for determination of injury. A new draft Federal Law "On Safeguard, Anti-Dumping and Countervailing Measures" had been prepared by the Government with the objective of introducing full conformity with the relevant WTO provisions in these areas. This new law would be submitted to the State Duma shortly.

171. Concerning anti-dumping, several members noted that the description of the current legislation provided by the Russian authorities did not appear to ensure consistency with relevant WTO provisions. In particular, investigations seemed to be limited to injury and causality aspects

without requiring a proper determination of dumping, while any measures applied would be expected to remain in place for "a limited period of time necessary to eliminate injury", thus not necessarily complying with the five-year maximum duration provided for measures undertaken under the WTO Agreement on Implementation of Article VI of the GATT 1994. Concerning safeguards, some members felt that more information was required on the measures currently in place or under consideration by the Russian authorities before any assessment of their WTO compatibility could be effectively made.

172. In response, the representative of the Russian Federation stated that in accordance with Articles 8 and 11 of the Federal Law No. 63-FZ, investigations should be primarily devoted to determination of injury, causation aspects and dumped imports. In particular, Article 11 established that the maximum duration of antidumping measures should be of five years, in conformity with WTO requirements.

173. Noting that new legislation was being prepared in these areas, including a new law "On Additions and Amendments to the Federal Law "On Protection of Economic Interests of the Russian Federation in Foreign Trade in Goods", some members felt that the Working Party should be given an opportunity to review the content and coverage of these new legislative acts as well as any implementing regulations so as to reflect their provisions in the Draft Report. As it was apparent that the Russian Federation intended to make recourse to such measures to regulate trade, members also stressed the importance of devising an appropriate commitment that should confirm the full conformity of the new Law and regulations and their modalities of application with relevant WTO Agreements.

174. [Some members of the Working Party requested the Russian Federation to confirm that, notwithstanding Article 18.3 of the Agreement on Implementation of Article VI of the GATT 1994, the Russian Federation would apply the provisions of the Agreement on Implementation of Article VI of the GATT 1994 to proceedings under Article 9.3, including the calculation of margins of dumping, in connection with anti-dumping measures adopted before the entry into force of the Draft Protocol ("existing measures"), to reviews of existing measures initiated under Articles 9.5, 11.2 and 11.3 pursuant to requests made on or after the entry into force of the Draft Protocol (any review of an existing measure of Article 11.3 would be initiated no later than five years from its date of imposition), and provide the type of judicial review described in Article 13 of the Agreement on Implementation of Article VI of the GATT 1994 with regard to proceedings under Article 9.3 and reviews under Articles 9.5, 11.2 and 11.3. These members further requested the Russian Federation to confirm that the Russian Federation would provide the type of judicial review described in Article 23 of the Agreement on Subsidies and Countervailing Measures with regard to reviews under Articles 19.3, 21.2 and 21.3; to ensure that all investigations initiated and measures imposed in the area of

trade defense instruments (i.e. anti-dumping, countervailing and safeguard measures) were fully consistent with WTO requirements upon accession; and to ensure that all relevant legislation in place at the time of accession or implemented in the future was in full conformity with the relevant provisions of the relevant WTO Agreements.]

175. [The representative of the Russian Federation confirmed that the Russian Federation would not apply such measures until it has notified and implemented laws in full conformity with the relevant WTO provisions, including Articles VI and XIX of GATT 1994 and the Agreement on the Implementation of Article VI, the Agreement on Subsidies and Countervailing Measures, and the Agreement on Safeguards. After such legislation was implemented, the Russian Federation would only apply any anti-dumping measures, countervailing measures and safeguard measures in full conformity with WTO provisions.]

Export Regulations

- Export Duties

176. Several members of the Working Party noted that the Russian Federation maintained export restrictions in the forms of export tariffs, export quotas and export licensing. These members were concerned that these measures might restrict trade without justifiable grounds. They therefore requested the Russian Federation to apply all such measures in conformity with WTO provisions.

177. The representative of the Russian Federation stated that export duties, ranging from three to 50 per cent, had been imposed mainly for fiscal purposes and, in very few cases (raw hides and skins, scrap and waste of non-ferrous metals) to ensure the availability of materials essential to the domestic industry and to prevent shortages in domestic supply. Export duties were applied on an MFN basis except for goods exported to 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). The Russian Federation maintained the same customs fees on exportation as on importation.

178. Several members stressed that export duties acted as indirect subsidies to domestic down-stream users and could thus distort international trade. They requested the Russian Federation to provide a comprehensive listing of export duties by HS-number together with the applied duty rates. Noting that the Russian Federation was preparing new legislation on import and export licensing and on application of standards and the certification of imports, these members felt that this information should be updated when that legislation would be in a more advanced form. Noting further that VAT exemption on exports of oil and natural gas was slated to expire in 2004, some

members suggested that the Russian Federation's plans on the revision of its export tariff regime should be reflected in the draft Report.

179. Noting that the Russian Federation had argued that export duties were levied mainly for fiscal purposes, some members expressed concerns that the effect of these duties was to discriminate against foreign buyers and to raise the level of the export price so that third-country producers encountered their own difficulties of supply for the products concerned; suffered from increased production costs resulting from higher input or energy costs; and/or faced a situation where they lose relative competitiveness on the global market for downstream products as a result of the indirect price support given to domestic Russian producers competing in the same markets. This was particularly the case as a result of export duties on minerals, petrochemicals, natural gas, raw hides and skins, ferrous and non-ferrous metals and scrap. [These members expected the Russian Federation to make a commitment to phase out export duties under modalities and a timetable would need to be established. The Russian Federation should also commit that export duties would not be applied on other products and that, once eliminated, export duties on products currently affected would not be reintroduced.]

180. In response, the representative of the Russian Federation reiterated that export duties were levied mainly for fiscal purposes, aiming to pay the external debt of the Russian Federation. In the 2001-2002 years the list of goods subject to export duties was reduced by more than 40 per cent, while the simple mean rate of export duties was reduced from 10.5 to 6.5 per cent. Products subject to export duties and respective duty rates on June, 2002 at the 10-digit level of HS-2002 were enumerated in the Annex I to document WT/ACC/SPEC/RUS/25/Add.2. The list of products subject to export duties containing 680 lines at present included mostly stock exchange products subject to world prices. Thus, export duties could not discriminate against foreign buyers and raise the level of export prices. The number of products subject to export duties would gradually be reduced depending on diminishing the external debt of the Russian Federation.

181. [The representative of the Russian Federation confirmed that the Russian Federation would apply from the date of accession export restrictions, in particular export duties and VAT, on a non-discriminatory basis vis-à-vis all WTO Members without any exemptions.]

- Quantitative Export Restrictions, Including Prohibitions and Quotas

182. The representative of the Russian Federation stated that all export bans or export quotas had been abolished since 1996. He noted that Article 15 of Federal Law No. 157-FZ of 13 October 1995 "On State Regulation of Foreign Trade Activity" allowed for the imposition of export quotas in exceptional cases to ensure essential national interests of the Russian Federation and implementation of its international commitments. There was no special registration of export contracts or registration

or nomination of exporting companies (special exporters). According to Article 19 of this law, a ban on exports could be introduced by special federal laws only.

183. Noting this statement, some members asked details on the export restrictions abolished in 1996 and on any other export restriction which might have been abolished since 1996. These members also asked a clarification regarding the reference to "essential national interests" as a justification for export quotas and any possible relation of this reference with relevant WTO provisions that referred to essential security interest.

184. In response, the representative of the Russian Federation stated that according to Article 19 of the Federal Law No. 157-FZ of 13 October 1995 "On State Regulation of Foreign Trade Activity", a ban on exportation or importation could only be introduced by Federal Law and for reasons of national interest, which consisted of:

- sustaining public morals and public order;
- protection of life and health of people, animals and plants and environment on the whole;
- preservation of cultural heritage of peoples of the Russian Federation;
- protection of cultural values from illegal exportation, importation or transfer of title;
- necessity to prevent exhaustion of irreproducible natural resources, provided that such measures are accompanied by a proportionate decrease of domestic production and consumption;
- national security of the Russian Federation;
- protection of financial position in foreign trade and maintenance of payment balance equilibrium of the Russian Federation;
- performance of international commitments of the Russian Federation.

185. Some members of the Working Party requested further clarification on the SCC Decree No. 1002 of 19 December 2001 "On Appointing Exportation Check-Points" which stipulated the customs clearance checkpoints that might be used for exportation of certain timber products by rail or road. A member noted that this Decree had been provisionally amended on 14 January 2002 to include customs clearance checkpoints at its country borders with the Russian Federation and asked whether the Russian Federation intended to make a definitive amendment to SCC Decree No. 1002 so as to avoid possible trade distorting effects. Another member asked an information on the sorts of timber products covered by the Russian measures and a clarification on whether this restricted use of checkpoints for exports would also cover additional products.

186. In response, the representative of the Russian Federation stated that SCC Order No. 1002 of 19 October 2001 "On Appointing Exportation Check-Points" for certain types of timber products (codes of Commodity Nomenclature of Foreign Economic Activity of Russia: from 4401 10 000 0 fuel wood in the form of logs and lumber; 4403; from 4404 chopped wood, piles and spiles, sharpened

but not length sawed; 4406; 4407; 4409) currently did not apply as provided for by a special instruction of SCC (teletype message of 11 February 2002 No. TF-3705-3713).

187. [The representative of the Russian Federation confirmed that the Russian Federation would abide by WTO provisions in respect of non-automatic export licensing requirements and export restrictions and would eliminate upon accession all non-automatic licensing requirements and export restrictions, unless they could be specifically justified under WTO provisions.]

- **Export Licensing Procedures**

188. The representative of the Russian Federation stated that export licensing procedures in operation in the Russian Federation were the same as import licensing in that they were regulated by Government Resolution No. 1299 of 31 October 1996 "On the Procedure for Conducting Tenders and Auctions for Distribution of Quota upon Introduction of Quantitative Restrictions and Licensing of Export and Import of Goods (Works, Services) in the Russian Federation". The most sensitive goods were subject to non-automatic licensing. A limited number of goods was subject to automatic licensing for the purpose of monitoring of trade flows (Tables 17(a) and 17 b).

189. Noting that the Russian Federation did not presently apply any export quotas, members considered that a system of non-automatic export licensing however applied to a wide range of products and that such measures had the potential to be applied in a manner contrary to the general prohibition of quantitative restrictions on export provided under Article XI of GATT 1994. In the case of precious metals and stones, the legislation providing for export licensing made the issue of an export licence for certain products subject to a quota (Presidential Decree No. 742 of 21 June 2001 "On the Procedure of Importation into and Exportation from the Russian Federation of Precious Metals and Precious Stones"). Under this Decree, exports of platinum were permitted under licence within quantitative limits, while exports of precious metals waste and scrap are prohibited. While a rationale could exist for the application of certain controls on exports under the relevant GATT exceptions clauses (including Articles XX and XXI), for example in respect of the exports of dual use goods, hazardous products, endangered species etc, the rationale for such controls on the exports of other goods, particularly pharmaceuticals, precious metals and stones other than gold and silver was less clear. Automatic licensing, which was already applied for exports of raw hides and skins, provided a mechanism to monitor export flows, if this was considered desirable. However, as discretionary controls on these particular products are unlikely to meet the relevant criteria of the GATT exceptions clauses, it was essential that any licensing regime should be genuinely automatic, in order to avoid restrictions on trade.

190. Several members also requested more information on the procedures followed and fees charged in connection with the issuance of export licenses. They requested confirmation that any fees charged on exports related to the cost of service rendered in accordance with WTO provisions. Some members questioned whether the restrictions on precious metals and stones, semi-precious stones, objects made thereof, certain alloys, semi-fabricates, ores, concentrates and wastes could be justified under the WTO provisions invoked by the Russian authorities. These members considered that the Russian Federation should provide full explanation of the measures applied on these products that the Russian Federation was seeking to justify under Article XV:9(b) of GATT 1994, including a description of each measures and their legal basis; the bodies involved in applying those measures including details of their responsibilities; the products affected by each measure; the export licensing procedures applicable, including details of any restrictions on eligibility for export licenses, other terms and conditions associated with their issuance, and the procedural aspects of the issuance of such licenses; the provisions of the Russian Federation's exchange arrangements with the IMF currently in force that required the Russian Federation to adopt or maintain the measures applied by means of non-automatic export licensing that the Russian Federation was seeking to justify under Article XV:9(b) of GATT 1994; and the Russian Federation's plans to eliminate all measures applied by means of non-automatic export licensing that might be required under those arrangements at the conclusion of their term.

191. In response, the representative of the Russian Federation stated that the issuance procedure for export licensing was regulated by Government Resolution No. 1299 of 31 October 1996 "On the Procedure for Holding Tenders and Auctions for the Sale of Quotas When Introducing Quantitative Restrictions and Licensing the Export and Import of Goods (Works, Services) in the Russian Federation", and the corresponding charges were regulated by Order No. 363 of 6 August 1999 of the Ministry of Trade of the Russian Federation "On Approval of Regulation on Fixing the Charges for Issuance, Reissuance and Extension of Licenses for Export and Import of Goods (Works, Services), Certificates of Barter Transactions". Work was currently being conducted in the Russian Federation to bring national export licensing legislation into accordance with WTO disciplines. Specifically, Federal Law No. 157-FZ, "On the State Regulation of Foreign Trade Activity" was being re-edited. Following its adoption, corresponding amendments will be made to the Government Resolution No. 1299 of 31 October 1996, "On the Procedure for Holding Tenders and Auctions for the Sale of Quotas When Introducing Quantitative Restrictions and Licensing the Export and Import of Goods (Works, Services) in the Russian Federation". Work was being conducted to bring the Russian Federation export licensing for precious metals and stones into accordance with WTO disciplines. Specifically, a draft regulatory document had been prepared on the introduction of amendments to Presidential Decree No. 742 of 21 June 2001, "On the Procedure of Importation into and Exportation from the Russian Federation of Precious Metals and Precious Stones". Further, inter-agency

consultations were being held to make new amendments to the same Decree to reduce the number of licensed goods and remove bans on the export of certain types of goods. In addition, a Presidential Decree had been drafted on the procedure for the import and export of raw natural diamonds, aimed at the future liberalization of international trade involving this category of goods.

192. Some members noted that the Russian Federation had applied restrictions on the number of customs checkpoints authorized for the export of specific products, for example metal scrap. In addition to creating potential delays and bottlenecks and adding to shipment costs, these members were concerned that such restrictions could also act as *de facto* trade barriers. They asked the Russian Federation to provide an update on steps being taken to increase the number of customs checkpoints authorized for the export of specific products, such as metal scrap and forestry products. These members were also concerned that licensing requirements that govern access to pipelines or other distribution networks could operate in a manner so as to restrict the volume of oil and gas exported from the Russian Federation. Management of these pipelines was typically the responsibility of a State monopoly (Transneft for oil and Gazprom and its affiliate Gazexport for natural gas). This situation raised questions of compatibility with WTO requirements, including Article XI of GATT 1994. They requested the Russian Federation to provide further information on the operation of these regimes, including on the regime for export licensing of energy products.

193. The representative of the Russian Federation said that there were no licensing requirements that govern access to pipelines or other distribution network so as to restrict the volume of gas and oil exported from the territory of the Russian Federation. He also confirmed that there were no export licenses requirements for these products.

194. [Members of the Working Party asked the Russian Federation to undertake a commitment that the Russian Federation would eliminate any quantitative or restrictive licensing measures on exports that could not be justified under the WTO Agreements by the date of accession and that any such measures applied in future would be in conformity with WTO provisions.]

- **Export Financing, Subsidy and Promotion Policies**

195. Members of the Working Party stressed the need to continue efforts to clarify whether benefits provided to certain exporting industries in the Russian Federation would constitute prohibited export subsidies. In particular, some members requested more information regarding the price and availability of natural gas to certain export industries vis-à-vis the price and availability to other commercial entities within the Russian Federation.

196. The representative of the Russian Federation confirmed that his authorities had not identified any export subsidies that would follow within the purview of prohibited export subsidies under the relevant provisions of the WTO Agreement.

197. Some members noted that the Russian Federation was developing a comprehensive draft law on State Aids that should address these issues and that deal comprehensively with subsidies, i.e., those provided for as "revenues foregone" through tax and tariff exemptions or special pricing policies, as well as those provided for in the budget. These members requested that the Russian Federation should revise its domestic law/regulations for any identified subsidy measures with a view to eliminate all prohibited industrial export subsidies upon accession. They requested the Russian Federation to describe export and import substitution subsidies, both at federal and sub-federal levels, and the subsidy effect of price and availability of natural gas to export industries, both in terms of world prices and the price and availability to other commercial entities within the Russian Federation.

198. The representative of the Russian Federation pointed out that the above-mentioned term 'special pricing policies' was inaccurate and had a wide sense not covered by existing WTO rules. He further stated that no existing industrial subsidies in Russian Federation constituted prohibited export subsidies. He stressed that availability and prices for natural gas were not contingent upon the export performance and were based on the non-discriminatory principle. He further characterized the above-mentioned practice as commercially based.

199. [The representative of the Russian Federation confirmed that, from the date of accession, the Russian Federation would not maintain subsidies, including export subsidies which met the definition of a prohibited subsidy, within the meaning of Article 3 of the Agreement on Subsidies and Countervailing Measures, that it would not introduce such prohibited subsidies in the future, and that export financing and other export promotion policies would be operated in conformity with WTO provisions. He further confirmed that this commitment covered subsidies at all levels of government, including exemptions, reductions, deferrals of forgiveness of taxes and duties to enterprises which were contingent upon export performance. He also confirmed that the Russian Federation would not invoke any of the provisions of Articles 27, 28 or 29 of the Agreement of Subsidies and Countervailing Measures.]

- **Other Customs Formalities**

200. A member of the Working Party expressed concern about the Russian Federation's practice of maintaining only a very limited number of customs checkpoints authorized for exportation of certain products and also the practice to close promptly certain customs checkpoints, thus creating serious impediments to trade. This member had a particular concern regarding SCC Order No. 1219 "On

Defining Places for the Customs Formalization and Export of Ferrous and Non-Ferrous Metals Scrap and Wastes" of 27 December 2000 which provided that non-ferrous and ferrous metal scrap could be exported only through the seaports of the Russian Federation. He requested the Russian Federation to ensure that these and other measures related to exportation would be brought in full conformity with WTO provisions upon accession.

201. In response, the representative of the Russian Federation noted that SCC Order No. 1219 1219 "On Defining Places for the Customs Formalization and Export of Ferrous and Non-Ferrous Metals Scrap and Wastes" of 27 December 2000 (as amended on 5 July, 21 December 2001 and 9 April 2002) was enacted to bring into order the shifting across the customs border of the Russian Federation of the scrap and the wastes of ferrous and non-ferrous metals exported out of the boundaries of the customs territory of the Russian Federation. This Order contained a wide list of sea points (61 points) for crossing the customs border of the Russian Federation to export above mentioned commodities. He stressed that the provisions of this Order were not to applied to the above-mentioned commodities exported out of the customs territory of the Russian Federation by rail transport through the crossing points defined by this Order (21 points). In the view of the Russian Federation the above-mentioned measures constituted neither serious impediments to trade nor violation of WTO rules.

3. Internal Policies Affecting Foreign Trade in Goods

- Industrial policy, including subsidy policies

202. The representative of the Russian Federation noted that under current Russian legislation the following types of state support (financial contribution) were available: (i) direct transfers of budgetary funds, including those under federal targeted and investment programs; (ii) grants and subventions (earmarked grants) to regions; (iii) budgetary loans, credits and guarantees; and (iv) deferred payments and exemptions with respect to payable taxes. Tariff preferences with respect to goods and services produced by natural monopolies could also be granted by decisions of federal and regional tariff regulating authorities. Total state support averaged US$12 billion a year, including US$10 billion from the federal budget (average data for 1997-1999). Support was accorded both at federal and regional levels. Direct transfers constituted the main element of state support to industrial production sector (around 40 per cent). Such support was concentrated in the coal mining industry and it was mainly targeting social and restructuring needs. The remaining amount of direct transfers was provided for under federal targeted programs, 38 per cent of which destined to programs (projects) associated with the development of industrial production. At present, no budget subsidies existed in the Russian Federation which could be considered as export subsidies.

203. He added that financial contribution to the regions of the Russian Federation did not directly related to the development of industrial production, but was aimed at reducing regional financial disparities. The bulk of transfers was provided on the basis of objective indicators characterizing social situation in the regions (82.5 per cent of the total amount). The rest was paid for deliveries of supplies of food and fuel to Far North areas (11.5 per cent) and special ("closed") territorial areas. The same forms of state support to industrial production sectors 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 destined to production development.

204. Noting that WTO rules on subsidies covered state benefits given through revenues forgone, as well as those financed through budgetary allocations, some members felt that the Russian Federation appeared to address the issue of prohibited subsidies, but did not address that of other industrial subsidies that should be notified under the WTO Agreement on Subsidies and Countervailing Measures. They requested updated information on the Russian Federation's comprehensive draft law on State Aids, including a description of its purpose, scope and provisions, and an indication of when it might be implemented. Some members asked details regarding current subsidies paid to the coal sector and other sectoral sectors such as the automobile and aircraft industries as well as the Russian Federation's plans to eliminate them. These members also questioned whether or not budget subsidies currently existed in the Russian Federation which could be considered export subsidies. They asked, in this regard, to what extent loans provided under Government Resolution No. 538 of (date to be supplied) "On Provisions of Budgetary Loans to Finance the Implementation of High-Return Contracts for Production and Supply of Products, Including Export Supplies" of 15 May 1999 were contingent upon export performances. [More generally, several members asked the Russian Federation to confirm that any subsidy programs would be administered in line with the WTO Agreement on Subsidies and Countervailing Measures, whether at the national, sub-national, regional or local level, and that upon accession all necessary information on programs to be notified, if such programs existed, would be provided to the Committee on Subsidies and Countervailing Measures in accordance with Article 25 of the Agreement.]

205. In response, the representative of the Russian Federation stated that the provision of subsidies in the Russian Federation was regulated by budget legislation and tax legislation. The preparation of the specific legislation regulating provision of subsidies (the State Aid Law) was still under way and being re-drafted. The new legislation would cover all potential subsidies subject to WTO rules, but would unlikely interfere with the Tax Code. The final draft legislation should be fully consistent with respective WTO regulations, including the ban on the prohibited industrial export subsidies under WTO rules.

206. Some members stated that the Russian Federation shall recognize that tariff preferences or natural monopoly pricing could constitute a subsidy under the WTO Agreement on Subsidies and Countervailing Measures. These members asked the Russian Federation to provide a description of the existing pricing mechanisms and any reforms under way to bring domestic prices for oil, natural gas and electricity closer to world market prices.

207. In response, the representative of the Russian Federation pointed out that his authorities continued to believe that tariff preferences or natural monopoly pricing did not constitute a subsidy under the WTO Agreement on Subsidies and Countervailing Measures. Regarding domestic prices for oil, natural gas and electricity, he referred to his statement in paragraph […].

208. [The representative of the Russian Federation confirmed that for all federal and regional subsidy measures identified, the Russian Federation would revise its domestic law or regulations to eliminate prohibited subsidies within the meaning of Article 3 of the WTO Agreement on Subsidies and Countervailing Measures from the date of accession. He further confirmed that the Russian Federation would, upon accession, grant no subsidies contingent upon the use of domestic over imported goods in the meaning of Article 3:1(b) of the WTO Agreement on Subsidies and Countervailing Measures and that this commitment would cover subsidies at all levels of government, including exemptions, reductions, deferrals or forgiveness of taxes and duties to enterprises which were contingent upon export performance or the use of domestic over imported goods. He also confirmed that the Russian Federation would administer any subsidy programs in place or established after accession in conformity with the WTO Agreement on Subsidies and Countervailing Measures and that all necessary information on programs be notified (if such programs existed) and be provided to the Committee on Subsidies and Countervailing Measures in accordance with Article 25 of the Agreement upon entry into force of the Russian Federation's Protocol of Accession to the WTO.]

Technical Regulations and Standards, Including Measures Taken at the Border with Respect to Imports

- Technical Barriers to Trade

209. The representative of the Russian Federation said that the State Committee of the Russian Federation for Standardization and Metrology (Gosstandart of Russia) was the federal authority for standardization, metrology and certification matters. Gosstandart acted directly or through its subordinate centres for standardization, metrology and certification and state inspectors, performing surveillance over State standards and providing uniformity in the units of measure. The tasks of developing State standards of the Russian Federation, and of participating in the development of international and regional standards, was fulfilled by technical standardization committees.

210. The legal framework for the regulation of matters pertaining to standardization, metrology and certification was established under the following legislative acts: Federal Law No. 5154-1 of 10 June 1993 "On Standardization" (as amended and supplemented on 27 December 1995); Federal Law No. 4871-1 of 27 April 1993 "On Provision of Uniformity of Units of Measure"; Federal Law No. 5151-1 of 10 June 1993 "On Certification of Products and Services" (as amended and supplemented on 27 December 1995, 2 March, and 31 July 1998); Federal Law No. 2300-1 of 7 February 1992 "On Protection of Consumer Rights" (as amended and supplemented of 17 December 1999); Government Resolution No. 100 of 12 February 1994 "On Organization of Works in Standardization, Provision of Uniformity of Units of Measure, Certification of Products and Services"; Government Resolution No. 113 of 2 February 1998 "On Certain Measures to Improve Systems of Ensuring Quality of Products and Services"; Government Resolution No. 1212 of 1 November 1999 "On Development of a Uniform System of Classification and Encoding of Technical and Economic and Social Information"; Government Resolution No. 26 of 11 January 2000 "On Federal System of Cataloguing Products Procured for Federal State Needs"; and Government Resolution No. 514 of 6 July 2001 "On Accreditation of Organizations Performing Assessment of Conformity of Products, Production Processes and Services to the Existing Quality and Safety Requirements".

211. Under this legislative framework, 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. In particular, imports of products into the territory of the Russian Federation were restricted if the products in question did not meet the legislative requirements; they did not have a certificate, marking or a corresponding sign in the cases envisaged by federal laws and other legal acts of the Russian Federation; or they were banned for use as harmful consumer goods.

212. The Russian authorities determined the nomenclature of products and services subject to mandatory certification in the Russian Federation. Products subject to mandatory certification were listed in 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" (as amended on 24 May 2000). Gosstandart was in charge of organizing and implementing mandatory certification requirements. In cases envisaged by legislative acts of the Russian Federation with respect to certain types of products, this task could be entrusted to other governmental bodies of the Russian Federation. The forms of mandatory certification of products were determined by Gosstandart or other authorized governmental bodies of the Russian Federation with due regard to established international practices. Government Resolution No. 287 of 29 April 2002 "On the Amendments to the List of Goods Subject to Mandatory Certification, to the

List of Works and Services Subject to Mandatory Certification and to the List of Products Whose Conformity May Be Confirmed by Conformity Declaration" substantially reduced the list of goods subject to mandatory certification.

213. Work on mandatory certification of goods in the GOST R certification system was currently conducted by foreign certification authorities and test laboratories accredited in accordance with the established procedure, as well as by Russian authorities and laboratories. Certification authorities and test laboratories were accredited in accordance with ISO/IEC Guideline 5 and ISO/IEC Standard 17025, the procedure being uniformly applicable to Russian and to foreign certification authorities and laboratories. The list of accredited certification authorities and test laboratories was published on Gosstandart's webpage, at www.gost.ru.

214. The list of goods for which safety might be confirmed by declaration of conformity was provided in Government Resolution No. 766 of 7 July 1999 "On Approval of the List of Products Whose Conformity May Be Confirmed by Conformity Declaration". 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 a certificate should be submitted to customs authorities together with the cargo customs declaration, and was necessary to obtain permission for importing the products in question into the Russian Federation. The recognition of certificates issued by the supplying country was carried out by reference to interstate agreements and international certification systems to which the Russian Federation had acceded. The fees connected to certification of products and services, including certification tests, were payable as provided for under the certification rules "Payment for Works Involved in Certification of Products and Services" issued by the Ministry of Finance and registered with the Ministry of Justice of the Russian Federation. The Appeal Commission of Gosstandart was regulated by its charter and had been set up for the purpose of considering complaints by users concerning the 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 related issues.

215. All work related to conformity with the WTO Agreements on TBT and SPS was conducted under the provisions of the Inter-Agency Program of Measures to Ensure Compliance with the Requirements of the WTO Agreement on TBT and the WTO Agreement on SPS. Gosstandart, jointly with the Ministry of Economic Development and Trade of the Russian Federation, had drafted measures aimed at further harmonizing the existing legislation with the requirements of WTO Agreements on TBT and SPS. The draft framework implementing these measures provided the following main approaches based on the provisions of the WTO Agreement on TBT: (i) issues of safety and quality of products would be regulated by legal acts, i.e. technical regulations providing

binding specifications with respect to goods and their production processes; (ii) national standards would be developed, as a rule, pursuant to an international counterpart as voluntary standards; (iii) conformity confirmation procedures would be reconciled with international rules and would be a constituent part of a technical regulation, providing the producer with a choice of different confirmation schemes depending on the degree of potential danger of the products; (iv) legislative support would be obtained through a single enquiry point open to customers, including international customers, and containing all available documents and documents in progress; (v) the draft law provided that 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. The requirements of technical regulations, standards and procedures of mandatory conformity confirmation were applied in the Russian Federation uniformly to Russian and imported goods.

216. He further stated that, after the adoption of this law, his authorities intended to examine the adjoining legislation and, if necessary, define the ensuing amendments. In addition, in 2002 his authorities intended to issue federal laws "On Accreditation" and "On Cataloguing". Simultaneously, draft state standards would be developed based on the direct application of 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 also being developed 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.

217. He also recalled that, for the purposes of implementing the provisions of the WTO Agreement on TBT, which required harmonization of national standards with their international counterparts, since 1997 and subject to state standardization plans, his authorities had developed and implemented state standards, over 50 per cent of which were already harmonized with their international counterparts. The overall level of harmonization of domestic standards with international standards was currently about 35 per cent. While the draft framework law was not yet operational, Gosstandart was working on the exclusion of certain types of products from the range of goods subject to mandatory certification, and on the reclassification of certain types of products so as to allow their conformity confirmation by a declaration of conformity (quality system certificate, tests protocol of the accredited laboratory). The Single Enquiry Point contemplated under the WTO Agreements on TBT and SPS had been established to provide the Russian and foreign customers with access to Russian legal provisions, standards, rules and conformity confirmation procedures. The enquiry point was located within Gosstandart of the Russian Federation 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

218. In order to implement the requirements of the WTO Agreements on TBT and SPS with respect to the 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 enacted and published in November 2001. This regulation provided the framework requirements and procedures for filling in the notification forms with respect to draft regulatory documents produced pursuant to WTO Agreements on TBT and SPS. Since 2000, Gosstandart had published a regular (quarterly) "Newsletter (Vestnik) of the Russian Enquiry Point", which contained such regulatory documents and reference materials as required by the WTO Agreements on TBT and SPS. Draft documents were also published in the Newsletter. In order to provide an adequate level of transparency on any measures taken, a web-page was created on the Internet by the Ministry of Economic Development and Trade and Gosstandart (http://www.gost.ru/) containing plans for development of standards, draft laws, other draft regulatory acts, and other required documents pursuant to WTO Agreement on TBT. During 2002, this page would be supplemented with documents and information in English.

219. Several members noted that, so far, the Russian authorities had provided a general outline of current elements of the Russian Federation's system of standards and certification, without including detailed information on the required institutional arrangements. The Russian Federation's effort to amend the current system in order to ensure effective and ongoing compliance with TBT obligations also remained to be reviewed. In this regard, these members asked the Russian Federation to provide an updated checklist on steps currently under ways in the Russian Federation to implement the WTO Agreement on Technical Barriers to Trade including copies of the latest draft legislation in this area. Noting further that the Russian authorities were in the process of developing new or amended laws on Standardization, Metrology, and Conformity Assessment whose provisions would address a number of the concerns expressed by the Working Party with the Russian Federation's current TBT regime, many members felt that this new additional legislation might go a long way towards reforming the present system to prevent unnecessary technical barriers to trade. Concerns, however, remained regarding the level of harmonization of domestic standards with international standards as the current 35 per cent level was considered far too low. In this regard, these members asked to be informed on the respective international standards that would serve as e reference for the harmonization of domestic standards and whether there were any relevant product sectors where the respective domestic standards would not be subject to harmonization with international standards.

220. In response, the representative of the Russian Federation stated that ISO, IEC MSE, EEC UN, the Codex Alimentarius, European norms and the internationally accepted ASTM and BAE standards were used as basic international standards. The draft law "On Fundamentals of Technical Regulation in the Russian Federation" took into account the provisions of the Code of Good Practice. This draft law did not envisage industry standards as standardization documents. Therefore, upon the adoption of the law, all existing industry standards must be adopted either as national standards or as standards of research-technology and public organizations. Subjects of the Russian Federation had no standards of their own.

221. Some members asked for a description on how the new legislation would address identified concerns such as the need for clarity in the Russian Federation' s legislation on TBT, for additional horizontal guidance to authorities on their development and application of technical regulations, for additional transparency and enhanced due process regulations, and for action to bring fees for conformity assessment services into line with WTO provisions. Other examples of measures which required further description included establishing a clear distinction between compulsory technical regulations and voluntary standards, ending the coexistence of various categories of so-called 'standards' and the existence of compulsory elements in the standards (with no exceptions), aligning with international standards (unless there were justified exemptions) and participating in international standards bodies, assuring openness and transparency in the drafting of technical regulations, standards, etc., and clearly defining the products subject to mandatory certification while assuring proportionality in conformity assessment measures and consistency of certification procedures applied to the same products.

222. In response, the representative of the Russian Federation stated that the draft law "On Fundamentals of Technical Regulation in the Russian Federation" set forth that the federal technical regulation authority should confirm and publish in its official publication a list of national standards ensuring compliance with the requirements of technical regulations, so the voluntary application of state standards would lead to an assumption of conformity to technical regulations. He further noted that this draft law envisaged a seven-year transitional period during which all mandatory requirements of standards must be transferred into technical regulations, and standards transferred to the voluntary category. Under this draft, the principle of using international standards as a framework for developing national standards applied equally to all types of goods with the exception of cases where this was impossible due to special climactic or geographical conditions, and as a result of technical or technological differences.

223. Some members considered that the Russian Federation should further describe its intentions to clarify and institutionalize the responsibilities of the various national agencies in implementing the WTO Agreement on Technical Barriers to Trade, including the designation of an authority

responsible for overall implementation and, more generally, the practical arrangements in place to ensure compliance of measures covered with WTO relevant provisions. [These members also sought a commitment that the Russian Federation would implement the WTO Agreement on Technical Barriers to Trade upon accession. They also sought to obtain relevant information and commitments by the Russian Federation regarding adherence of standards setting bodies to Annex 3 of the WTO Agreement on Technical Barriers to Trade and compliance of sub-federal bodies with the provisions of this Agreement.]

224. Regarding requirements on forgery-proof marks for electric appliances, a member noted that on 30 December 1998 the Ministry of Trade and Gosstandard had issued Instruction No. 200/30 (title to be supplied) under which manufacturers of these products were required to affix a conformity mark on their products, importers and/or dealers were required to affix a registration information mark on the box (to be purchased in advance from each regional Trade Inspection Department), and sellers and/or retailers were required to affix a registration information mark on each product. As a result, this member maintained that foreign manufacturers were obliged to purchase three different kind of marks for their products, resulting in an unnecessary burden for their business. He requested the Russian Federation to eliminate these requirements as soon as possible.

225. [The representative of the Russian Federation confirmed that the Russian Federation would apply all obligations under the WTO Agreement on Technical Barriers to Trade from the date of accession without recourse to any transition period.]

- Sanitary and Phytosanitary Measures

226. The representative of the Russian Federation explained that the Department on State Sanitary and Epidemiological Surveillance ("Gossanepidnadzor") of the Ministry of Health (MOH) was the federal executive authority in charge of ensuring sanitary and epidemiological well-being of the population. Protection of human health was currently regulated by Federal Law No. 5487-1 of 23 June 1993 "Fundamentals of Health Legislation of the Russian Federation"; Federal Law No. 52-FZ of 30 March 1999 "On Sanitary and Epidemiological Well-Being of the Population"; Government Resolution No. 554 of 24 July 2000 approved "Regulations of the State Sanitary and Epidemiological Service of the Russian Federation" and "Regulations on State Sanitary and Epidemiological Standardization"; and terms and provisions of other federal laws and resolutions of the Government of the Russian Federation concerning provision of safety of goods and products for human health and environment (e.g. Federal Laws "On Environmental Protection"; "On Consumer Rights Protection"; and "On Quality and Safety of Food Products"). Under the current legislation, goods produced by domestic manufacturers and sold on the territory of the Russian Federation should comply with sanitary norms and hygiene standards. Sanitary norms and hygiene standards for foodstuffs should be

science-based. Leading scientific-research institutes of the Russian Academy of Medical Sciences, departments of medical colleges and other interested institutions should participate in their development. Existing sanitary rules and hygiene standards for foodstuffs should be harmonized with directives and recommendations of the Codex Alimentarius Commission.

227. 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, for 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 No. 52-FZ). Such conformity should be confirmed by a sanitary-epidemiological approval or a registration certificate. A sanitary and epidemiological report was not confirmation of conformity of products and goods with the requirements of sanitary legislation (this was the 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. As a rule, hygienic assessment of imported products had to be performed prior to delivery of products into the territory of the Russian Federation. Imports of products that had not passed a prior hygienic assessment procedure had to be subjected to hygienic examination resulting in a hygienic report valid for such particular consignment only.

228. Government Resolution No. 987 of 21 December 2000, "On State Surveillance and Control in Ensuring the Quality and Safety of Foodstuffs" distinguished between the functions of the authorities and institutions of the State Veterinary Service of the Russian Federation and the State Sanitary and Epidemiological Service of the Russian Federation for the conduct of expert reviews of animal products. A sanitary and epidemiological conclusion on imported goods was confirmation of their conformity with the requirements of sanitary legislation. When goods were exported, the State Veterinary Service of the Russian Federation should certify that animal products were safe from a veterinary viewpoint and complied with veterinary norms and requirements. The veterinary certificate could not be duplicated.

229. Pursuant to Article 14 of Federal Law 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 only after their state registration based on the results of research, tests and examination. Federal Law No. 52-FZ (Article 43) also provided that chemical and biological substances not previously industrially produced or used, and preparations thereof presenting potential human threat, certain types of products presenting potential human threat, and certain types of products including food products imported into the Russian Federation for the first time should be subject to state registration. State registration of the above substances and types of

products was based on an assessment of the threat presented by the substances and certain types of products for human life and health and environment according to regulatory documents and assessment guidelines approved by the Ministry of Health of the Russian Federation. Federal Law No. 109 of 19 July 1997 "On Safe Use of Pesticides and Agrochemicals", and other regulatory acts subsequently approved, determined the procedure of State Registration in the territory of the Russian Federation. This procedure included a mandatory toxic-hygienic expert review of pesticides and agrochemicals to be carried out by the MOH on the basis of a thorough assessment by scientific research institutions appointed by the MOH. The list of pesticides and agrochemicals permitted or prohibited for use was drawn up by the Ministry of Agriculture (MOA) as approved by the MOH.

230. Federal Laws No. 52-FZ of 30 March 1999, "On Sanitary and Epidemiological Wellbeing of the Population", No. 29-FZ of 2 January 2000, "On Quality and Safety of Foodstuffs", Government Resolution No. 988 of 21 December 2000, "On the State Registration of New Foodstuffs, Materials and Items" imposed uniform requirements when conducting state registration of new foodstuffs, materials and items newly developed and first produced in the territory of the Russian Federation (Russian goods), and for goods imported into the Russian Federation for the first time. State registration of imported foodstuffs was under the competence of the MOH. Approval of the MOA was required only for approval of a specific product of animal origin.

231. A registration certificate was issued for any type of product for the whole period of industrial production in the case of Russian products, or the period of supplies in the case of imported products. State registration of potentially hazardous substances and types of products was performed by the MOH and, in the case of new food products of animal origin, by the MOH in conjunction with the MOA (Government Resolution No. 262 of 4 April 2001 "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"; Government Resolution No. 987 of 21 December 2000 "On State Surveillance and Control in Ensuring Quality and Safety of Food Products"; and Government Resolution No.988 of 21 December 2000 "On State Registration of New Food Products, Materials and Items"). Lists of products subject to state registration were attached to the above Resolutions. Requirements and criteria with respect to safety of products for human health and the environment pursuant to Articles 1, 2, 12, 13, 15, 16, 37, 38, 39, 41, 42 of Federal Law No. 52-FZ were implemented by state sanitary and epidemiological rules and norms which were regulatory legal acts and binding on all citizens, individual entrepreneurs and legal entities. All regulations within the territory of the Russian Federation were implemented through federal rules approved and enacted by the MOH.

232. 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

(MOH – 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. Pursuant to Russian legislation, an applicant had the right to appeal a decision of Gossanepidnadzor following administrative or judicial procedures. The procedure for sanitary and epidemiological examination of products, types of products and the procedure for issuing a sanitary and epidemiological report on the conformity of products with state sanitary and epidemiological rules and norms were established under the Regulations on the Procedures of Sanitary and Epidemiological Examination of Products, approved by MOH Order No.217 of 20 July 1998. A sanitary and epidemiological report ascertaining the conformity of products with 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.

233. After state registration with the Ministry of Justice (MOJ) of the Russian Federation, all regulatory legal acts of the MOH 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; 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 three months after their approval, unless a direct threat to human health and life was involved. A Russian TBT and SPS Enquiry Point had been set up and was functioning, supplying all relevant information on SPS issues as noted in paragraph […].

234. The Federal executive authority in charge of veterinary control over imports of animal products was the MOA (Veterinary Department). The procedures of the State Veterinary Service were regulated by Federal Law No. 4979-1 of 14 May 1993 "On Veterinary Service", and other federal laws and regulatory legal acts made pursuant thereto (Government Resolution No. 830 of 29 October 1992 on "Regulations on the State Veterinary Service of the Russian Federation for Protection of the Russian Territory Against Importation of Infectious Animal Diseases from Abroad"; Government Resolution No. 706 of 19 June 1994 on "Regulations on State Veterinary Surveillance in the Russian Federation"; Government Resolution No. 1263 of 29 September 1997 on "Regulations on the Procedure for Examination of Low Quality or Hazardous Food Input and Products, Their Use and

Destruction"; "Regulations on Division of Functions of State Veterinary Surveillance in Processing and Storage Enterprises of Animal Products" No. 13-7-2/173 of 14 October 1994 approved by the Chief State Veterinary Inspector of the Russian Federation; Instruction "On the Procedure for Issuance of Veterinary Accompanying Documents for Cargoes Controlled by the State Veterinary Surveillance Agency" No. 13-7-2/871 of 12 April 1997 approved by the MOA; and Government Resolution No. 987 of 21 December 2000 "On State Surveillance and Control in Ensuring Quality and Safety of Food Products").

235. Developments in legislation on certification, quality and safety of products made it necessary to update Federal Law No. 4979-1 of 14 May 1993 "On Veterinary Service". Amendment and supplementing regulations were currently in preparation. Changes would affect the structure of the State Veterinary Service of the Russian Federation and the organization of veterinary and sanitary surveillance. Veterinary requirements with respect to domestic and imported cargoes controlled by the state veterinary services were the same as provided under Federal Law No. 4979-1 of 14 May 1993 "On Veterinary", Articles 14,15,18. The list of controlled cargoes was contained in letter No. 13-8-01/3009 of 16 May 2000 of the Veterinary Department of the MOA. Imports of cargoes controlled by the State Veterinary Service required authorization of the Chief State Veterinary Inspector of the Russian Federation, with regard to the epizootic situation in the exporting country and taking into account the Russian firm's ability to ensure appropriate conditions of care for imported animals, and storage, processing and sale of animal products. Cargo entering the Russian Federation had to be accompanied by the original veterinary certificates of the exporting country, issued by the state veterinary service of the country of production and guaranteeing compliance with all provisions of the certificate.

236. The Russian Federation had agreed forms of veterinary certificates for all types of animal products with the state veterinary services of most exporting countries. Import of animal products under approved veterinary certificates was not a mandatory procedure. In the absence of approved veterinary certificates, animal products were exported to the Russian Federation under general veterinary certificates. The actual import conditions were contained in the veterinary certificate. The list of cargoes controlled by the State Veterinary Service had been compiled in accordance with the Goods Nomenclature of Foreign Economic Activity and only included those items which may be a source of infectious animal diseases or poisoning, and threaten the life and health of animals and people.

237. Pursuant to the requirements of bilateral agreements for cooperation in veterinary matters, and also pursuant to the Code of the International Epizootics Office (IEO) and by virtue of Federal Law No. 4979-1 of 14 May 1993 "On Veterinary Practices", pre-shipment inspection was carried out on raw meat products that had not undergone thermal treatment, and was implemented under the

supervision of representatives of the Veterinary Department. For those countries that had not agreed veterinary certificates with the Russian Federation, import of cargoes was 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 the Russian Federation and letter No.13-8-01 of 23 December 1999 issued by the MOA. Bilateral agreements on the presence of Russian veterinary inspectors to supervise the fulfillment of Russian Veterinary Service requirements when delivering meat to the Russian Federation had been reached with a number of countries with unfavorable epizootic situations with regard to infectious animal diseases. In these cases the Russian Veterinary Inspector took a decision on delivery of a specific meat shipment to the Russian Federation taking into account the epizootic situation, conditions of processing and storage of meat in Russia, and prevents delays at border crossings and the shipment's return to the exporting country.

238. Imports of controlled cargoes into the Russian Federation were restricted to designated cross-border checkpoints at railway and car stations, at seaports, airports and other specially equipped places open for international communications and having cross-border veterinary checkpoints installed. To be able to bring controlled cargoes (as imports or in transit) regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), in addition to the above documents the owner of the cargo needed to have a permit from the CITES agency in the exporting country (in the Russian Federation the CITES agency was the Ministry of Natural Resources).

239. International transit of cargo controlled by the State Veterinary Service through the Russian Federation was conducted in accordance with the provisions of the International Epizootics Office's International Veterinary Code. Written authorization from the Chief State Veterinary Inspector of the Russian Federation was not required for international transit of raw produce and products of animal origin through Russia. When crossing the border of the Russian Federation the cargo was inspected by the State Veterinary Inspector of the appropriate cross-border surveillance veterinary checkpoint and, if requirements of integrity of packaging, conformity of labeling to transport documents and existence of the exporting country's original veterinary certificate were fulfilled, a "transit permitted" stamp was placed on the original veterinary certificate upon import to Russia. International transit of live animals through the Russian Federation required written authorization from the Chief Veterinary Inspector of the Russian Federation, on the basis of a request from the central veterinary authority of the importing country, indicating the points of import, export, route, stops, transfers and animal feeding sites.

240. 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.

241. Import and export of pedigree animals required that the owner of the animals obtain (as well as the permit of the Chief State Veterinary Inspector of the Russian Federation and a veterinary certificate) an "extract from the state registry of selection achievements allowed for use, with respect to the imported plant seeds or pedigree animals" for imports and "confirmation of compliance with the requirements with respect to protection of patent holder rights with respect to the exported plant seeds or pedigree animals" for exports, signed by the Deputy Minister of Agriculture of the Russian Federation. Imports of veterinary preparations were regulated by Government Resolution No. 1539 of 25 December 1998 "Regulations on Imports into and Exports from the Russian Federation of Medicines and Pharmaceuticals". Once enacted, all new instruments of veterinary legislation were published in the journals "Veterinary Science and Practice", "Veterinary Newspaper", the newspaper "Veterinary Consultant", and other special publications.

242. Policies on plant quarantine were determined by the MOA, with actual quarantine being implemented, within the Ministry, by the State Service for Quarantine of Plants. Regionally, phytosanitary controls were implemented by state inspections for quarantine of plants conducted in the different regions of the Russian Federation. Cross-border phytosanitary controls at Russian checkpoints were 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. Import quarantine permits were issued under Government Resolution No. 268 of 23 April 1992 "On State Service for Quarantine of Plants in the Russian Federation", as amended and supplemented by Government Resolution of the 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 provided 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 required authorization by the agencies of the State Service for Quarantine of Plants of the Russian Federation". This latter Nomenclature was approved by the MOA on 19 March 1999 upon agreement with the SCC, and was binding both for the agencies of the State Service for Quarantine of Plants and the agencies of the SCC.

243. With regard to imports of seeds and planting stock and some other products imported by several regions, import quarantine permits relating to imports of fresh vegetables and fruits were issued by Rosgoskarantine. This could also be issued by regional inspection authorities. To obtain an import quarantine permit, the consignor had to apply to the corresponding inspection or Rosgoskarantin. The application had to state the product in question, the country of origin, the country of export, volumes, timeframe for collection, destinations and cross-border checkpoints for

imports of such products subject to quarantine (Government Resolution No. 268 of 23 April 1992 "On State Service for Quarantine of Plants in the Russian Federation"). An import quarantine permit indicated *ad hoc* phytosanitary requirements for each consignment of products subject to quarantine, and required that each consignment be accompanied by a phytosanitary certificate confirming conformity of the phytosanitary qualities of the product to the said requirements. A phytosanitary certificate needed to be issued by agencies of the state service in charge of the quarantine of plants in the exporting country. Phytosanitary measures maintained by the Russian Federation met the recommendations of the European and Mediterranean Plant Protection Organization (of which he Russian Federation(USSR) was a member since 1957 and an executive member since 1997).

244. Noting that the information provided above constituted a useful compendium of current practice in the Russian Federation, members of the Working Party felt that this information was still insufficient to assess to what extent the current regime was consistent with WTO provisions. More information on currently applied phytosanitary measures was also required. In this connection members stressed that lack of clarity in the way in which the Russian Federation proposed to ensure that its SPS regime, as in case of any other NTMs, could prevent bilateral market access negotiations being effectively pursued. While recognizing that the Russian Federation was taking steps to strengthen its SPS regime and bring it into compliance with WTO rules, members further considered that there was still substantial work ahead for the Russian Federation to develop a predictable, transparent, and science-based regulatory system that would ensure due legal process and sustained adherence to international obligations. In practice this could be achieved by achieving compliance with WTO obligations, particularly regarding the following principles of the SPS Agreement: transparency of measures through information to other WTO Members; consistency, coherency and proportionality of measures; non-discriminatory nature of measures, including the need for requirements affecting imports not to be more restrictive than those affecting domestic production; adoption of international standards set by Codex, OIE and IPPC for import rules (the rules must be based on transparent scientific risk assessment in case they go beyond the international standards, or where no international standards exist); applications of the principles of regionalisation; and, acceptance of certificates and other guarantees given by a third country (including the European Union) competent authorities as the basis for imports. Members stressed that the Russian Federation needed to bring its legislative and regulatory procedures into compliance with WTO requirements, and provide the necessary legislative acts and documentation to demonstrate how these current deficiencies would be addressed. They considered that an update of the Russian Federation SPS Action Plan would be particularly helpful at this stage of work. More information was also sought on the inspection procedures and associated charges in force in relation to import of poultry meat and red meat as that available indicated that the effect of recently introduced measures had made the testing procedures in the country of export more burdensome and had raised the charges levied on imports.

245. [Members of the Working Party sought a commitment that the Russian Federation would fully apply the WTO Agreement on SPS upon accession. The representative of the Russian Federation confirmed that the Russian Federation would apply all obligations under the WTO Agreement on Sanitary and Phytosanitary Measures from the date of accession without recourse to any transition period.]

- **Trade-related Investment Measures (TRIMs)**

246. The representative of the Russian Federation said that Federal Law No. 160-FZ of 9 July 1999 "On Foreign Investment in the Russian Federation" did not provide for measures inconsistent with the requirements of Articles III or XI of GATT 1994 nor measures which corresponded to the illustrative list of TRIMs contained in Article 2, paragraph 2 of the WTO Agreement on TRIMs. The Law provided that information on all measures affecting foreign investors should be published and authorised the Government and local entities to grant foreign investors a favourable regime, taking into consideration the general economic interest of the Russian Federation. Federal Law No. 225-FZ of 30 December 1995 (as amended on 7 January 1999, 18 June 2001) "On Production Sharing" contemplated that foreign investors which took part in production sharing schemes in the Russian Federation should place some proportion of their orders from locally produced goods. Presidential Decree No. 135 of 5 February 1998 "On Additional Measures to Attract Investments for Development of Domestic Car Making", and Government Resolution No. 413 of 23 April 1998 "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 exceeded the established ceiling. Four investment agreements had been signed on the basis of these acts.

247. In response to questions by some members of the Working Party, he confirmed that Government Resolution No. 574 of 2 August 2001 "On Certain Issues of Regulation of Temporary Imports of Foreign Made Aircraft" superseded Government Resolution No. 716 of 7 July 1998 "On Additional Measures of State Support for Civil Aviation in Russia". The latter Government Resolution provided for full exemption from customs duties and taxes for temporary import periods established by previously adopted Government decisions and was retained for foreign aircraft, spare parts and engines and simulators imported on the basis of such decisions. Proposals were also being discussed in the Russian Government on the reduction of import customs duty rates for foreign made aircraft imported to the Russian Federation, and foreign made spare parts and components required for domestic civil aircraft, equivalents of which were not produced in the Russian Federation.

248. Members felt that the information on TRIMs provided above did not fully address the issues that had been raised regarding the measures in place, particularly with respect to productioni sharing agreements and the investment-promoting legislation for the automotive sector for which a fuller

description was still required. Several members felt that additional information was needed, particularly on relevant WTO requirements relating to investment provisions provided for in the amendments to the Law No. 19-FZ on "Production Sharing Agreements" adopted on 7 January 1999. More information was also required on the workings of the Presidential Decree No. 135 of 5 February 1998 "On Attracting Additional Investments to Promote the Automobile Industry", Government Resolution No. 413 of 23 April 1998 "On Additional Measures to Attract Investments for the Development of the Domestic Automotive Industry", and Federal Law No. 160-FZ of 9 July 1999 "On Foreign Investment in the Russian Federation".

249. In response, the representative of the Russian Federation noted that Presidential Decree No. 135 of 5 February 1998 "On Additional Measures to Attract Investments for the Development of the Domestic Automobile Industry" contained provisions on state support of large-scale projects for the creation and development of production capacity for the manufacture of modern vehicles and parts. To implement this Decree, Government Resolution No. 413 of 23 April 1998 "On Additional Measures to Attract Investments for the Development of the Domestic Automobile Industry" was adopted. In this Resolution the Government approved regulations on features of the legal regulation of a bonded warehouse customs regime, the procedure for determining the country of origin of vehicles and parts during their export from the bonded warehouse territory with features of the legal regulation of a customs regime and their import to the remaining territory of the Russian Federation, as well as the procedure for determining quantitative restrictions for the application of features of the legal regulation of a bonded warehouse customs regime and the share of expenditure made on the territory of the Russian Federation in the production costs of the final product. Federal Law No. 160-FZ of 9 July 1999 "On Foreign Investments in the Russian Federation" defined the basic guarantees of foreign investors' rights to investments and income and profit obtained therefrom, and conditions of foreign investors' entrepreneurial activity in the territory of the Russian Federation. This Federal Law did not contain any measures classified under the TRIMs illustrative list.

250. [While noting that existing programs might be terminated or modified, several members requested confirmation that the Russian Federation would eliminate any existing TRIMs upon accession. The representative of the Russian Federation confirmed that, from the date of accession, the Russian Federation would eliminate and would not maintain any measures inconsistent with the WTO Agreement on Trade-related Investment Measures (TRIMs), and would apply this Agreement without recourse to any transition period.]

State-trading enterprises ("STEs")

251. The representative of the Russian Federation confirmed that his authorities considered that only five state-trading enterprises in the Russian Federation were required to be notified pursuant to

the notification requirements of Article XVII of GATT 1994. Those enterprises and the product/products for which had have special powers or privileges were: Russian joint stock company (RJSC) Gazprom – natural gas; Russian joint stock company (RJSC) UES of Russia – electricity; Joint stock company (JSC) Rosugol – coal (dissolved in November 1997); Joint stock company (JSC) Diamonds of Russia-Sakha (ALROSA) – raw natural diamonds; and State enterprise (SE) Almazyuvelir Export Foreign Trade Association – raw natural diamonds. In the view of the Russian Government, there were no other enterprises in the Russian Federation, 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 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.

252. Some members of the Working Party noted that in relation to Alrosa's sales of raw diamonds for exports, arrangements seemed to be in place that were expressly designed to deprive foreign enterprises of an opportunity to compete for participation in those sales. These members maintained that this practice would be inconsistent with the provisions of Article XVII:1(b) of GATT 1994. In response, the representative of the Russian Federation maintained that export deliveries of raw diamonds from the Russian Federation were executed on the basis of commercial contracts concluded between Alrosa and foreign enterprises. The State did not interfere into the substance and form of these contracts.

253. Some members requested further information on the role of marketing enterprises such as Exportkhleb, Prodintorg, and Roskhleboprodukt in agricultural trade, and a description of the legislation that had specifically ended the special rights and privileges that these organizations had traditionally received as monopoly trade or marketing entities. These members also asked further information on the extent to which the Russian Federation's agricultural trade was still conducted through inter-governmental agreements between the Russian Federation and other countries, especially CIS countries, and on whether any government-to-government barter arrangements were still in place.

254. Regarding trade in agricultural products, the representative of the Russian Federation noted that under Government Resolution No. 1224 of 26 September 1997 "On the Foundation of the State Unitary Enterprise – the Federal Agency for Food Market Regulation by the Ministry of Agriculture and Food of the Russian Federation", the Federal Agency for Food Market Regulation had 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. He confirmed that some enterprises (Roshleboproduct and Roscontract) had been granted exclusive and special rights in 1993-1994 in the context of bilateral barter trade with some CIS countries performed under the framework of special intergovernmental agreements for those calendar years. Such exclusive rights expired completely on 31 December 1995 where the agreement mentioned above also expired and were never resumed. At the present time the Russian Federation did not conduct barter trade with any of the CIS countries.

255. Several members requested further information regarding a recent government resolution that imposed licensing requirements on procurement, processing, storing, and marketing of grain and grain products for state needs, as well as on production of most grain products (bread, flour, etc.), and a clarification on the purpose of these licenses and on whether both foreign and domestic companies were subject to them. Concerning reports that 150 bankrupt grain facilities (mills, storage facilities, etc.) had been reverted to state control, some members requested clarification on how this process was being implemented and what role the Government would play in the operation and management decisions of these facilities. In addition to listing state-trading enterprises, these members also asked a confirmation that, upon accession, the Russian Federation's state-trading enterprises would be administered and operated in conformity with WTO provisions, including Article XVII and the Understanding.

256. Some members were particularly concerned that the commercial practices followed by the Russian state-trading enterprises, in particular Gazprom and Alrosa, could not be regarded as being based on commercial considerations. Specifically, sales for export were subject to controls in relation to quantity and price, and the sale of gas for domestic industrial consumption was at prices levels considerably below those applied for export which were linked to the prevailing would market price. Artificially low domestic energy prices could also lead to indirect subsidisation of downstream industries and to exports of value-added intermediate and finished goods at prices below their normal value. In addition to the significant trade distortion which these practices could cause, these members were concerned that current prices to domestic industrial customers could take place at rates that did not ensure "adequate remuneration" as provided for under Article 14(d) of the WTO Agreement on Subsidies and Countervailing Measures and thus would confer a benefit to domestic industrial users. More generally, this situation gave rise to questions as regards its compatibility with WTO requirements, not only in relation to Article XVII but also in relation to Articles XI and XVI of GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures. These members invited

the Russian Federation to provide further information on the operation of these enterprises, particularly as regards the manner in which prices were set for the export of natural gas and diamonds.

257. Responding on the functions of the five enterprises which could be granted the status of state trade enterprises, the representative of the Russian Federation referred members to the detailed information contained in documents WT/ACC/RUS/18 and WT/ACC/SPEC/RUS/25/Add.2. He further noted that a full list of functions and the working procedure of the federal agency for the regulation of the food market was enclosed to Government Resolution No. 1224 of 26 September 1997 "On the Foundation of the State Unitary Enterprise – the Federal Agency for Food Market Regulation by the Ministry of Agriculture and Food of the Russian Federation". Government Resolution No. 414 of 13 June 2002 "On Approval of the Regulation of Licensing of the Storage of Grain and Products Received as a Result of Its Remaking" approved the provision on the licensing of the storage of grain and products received as a result of its remaking. The major aim of the introduction of the provision stated was for legal persons and individual entrepreneurs to observe the rules of the storage of grain and other products. Government Resolution No. 414 had also invalidated the former Government Resolution No. 43 of 22 January 2002 "On Licensing of Purchase, Remaking, Storage and Realizing of Grain and Products Received as a Result of Its Subsequent Remaking Which is Meant for State Needs on Production of Bread, Macaroni, Flour, Groats and Other Grain Foods". He also stated that statements on reverting 150 bankrupt grain facilities to state control were unfounded.

258. [Members of the Working Party stated that they expected the Russian Federation to ensure that the practices of existing state-trading enterprises and other enterprises enjoying special or exclusive privileges would be brought into line with relevant WTO requirements as from the date of accession. Purchases and sales by such enterprises, whether of state-owned, state-invested or enjoying any special or exclusive privileges (including practices such as state orders, purchases for state needs, state-designated trading, state goods distribution, government-to-government agreements for the supply/purchase of products, dual pricing of energy and state mandated counter-trade and barter, and dual pricing of energy), should be based solely on commercial considerations, without any government influence or application of discriminatory measures.]

259. [The representative of the Russian Federation confirmed that, from the date of accession, the Russian Federation would apply its laws and regulations governing the trading activities of state-owned enterprises and other enterprises with special or exclusive privileges (including practices such as state orders, purchases for state needs, state-designated trading, state goods distribution, government-to-government agreements for the supply/purchase of products, and state-mandated counter-trade and barter), including those listed in paragraphs […], in conformity with WTO provisions, including Article XVII of GATT 1994, the Understanding on Article VII of GATT 1994,

and the Understanding on Article VIII of the GATS. He further confirmed that the Federal Agency for Food Market Regulation, established under Government Resolution No. 1224 of 27 September 1997 did not provide domestic support nor export subsidies in any form. He also confirmed that the Russian Federation would notify enterprises falling within the scope of Article XVII no later than upon accession, and would observe the obligations of non-discrimination and application of commercial considerations for trade transactions for these enterprises.]

- **Free Zones and Special Economic Zones**

260. The representative of the Russian Federation noted that, although Russian legislation provided for the establishment of free-trade zones, such zones had never become significant in terms of the Russian Federation's trade regime. Actually only one Special Economic Zone (SEZ) was operative due to the specific geographical location of the Kaliningrad region. This SEZ was directly administered by the regional authorities. Under Federal Law No. 13-FZ of 22 January 2000 "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). Under Article 7 of Federal Law No. 13 of 22 January 1996 –FZ "On a Special Economic Zone in the Kaliningrad Region", goods manufactured in the Special Economic zone and exported to other countries or transported to the rest of the Russian Federation should be exempt from customs duties and other charges payable upon the customs registration of goods (except customs fees). The goods stated should not be subject to economic policy measures (measures on non-tariff state regulation of foreign trade). Goods imported to the Special Economic Zone from other countries and then transported to the rest of the Russian Federation as well as to the territory of the Customs union (except goods which have been recycled in the Special Economic Zone and are considered to have been manufactured in this zone), should be subject to import customs fees and other fees payable upon the customs registration of goods. Economic policy measures could be implemented to the goods stated. Under Federal Law No. 13 of 22 January 1996 –FZ "On a Special Economic Zone in the Kaliningrad Region", Russian and foreign investors and entrepreneurs were granted privileges under fiscal law of the Russian Federation and the legislation of the Kaliningrad Region. The administration of the Kaliningrad Region with the agreement of the Government of the Russian Federation and the Central Bank of the Russian Federation should have the right to set privileges for Russian and foreign banks in regard to their work on the carrying out of the federal state program of the development of the Special Economic Zone. No value added tax should be levied on profits from transportation services, loading and unloading services, reloading and storage in the course of the transportation from the Special Economic Zone to the rest part of the customs territory of the Russian Federation and from the rest part of the customs territory to the Special Economic Zone.

261. The legislation in force (Federal Law No. 150-FZ of 27 December 2000 "On the Federal Budget for 2001", as amended on 24 March and 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 the year 2001. 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. Under Federal Law No. 13-FZ of 22 January 1996 "On the Special Economic Zone in the Kaliningrad Region", a product was deemed to be manufactured in the Special Economic Zone provided that the value added in the 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 the special economic zone was established by a Joint Resolution of the Administration of Kaliningrad Region and the SCC of Russia No. 296-r/01-14/1365 of 31 December 1998 "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 in Regulation No. 1892 of 9 July 1999.

262. Current legislation also provided for the establishment of SEZs in the Magadan region and in Nakhodka, but that these zones were not yet active. The Free Economic Area "Nakhodka" was formed in October 1990, as the Russian Federation'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 Government Resolution No. 1033 of 8 September 1994 "On Certain Measures of Development of the Free Economic Zone of Nakhodka". Exports and imports of goods to and from the Free Economic Area "Nakhodka" were regulated by the ordinary customs regime. Magadan Special Economic Zone was created under Federal Law No. 104-FZ of 31 May 1999 "On the Special Economic Zone in Magadan Region", and Law of Magadan Region No. 80-FZ of 5 July 1999 "On Changing the Administrative and Territorial Structure of Magadan Region". The procedure for determining that goods originated from the Special Economic Zone in Magadan Region was provided under Order No. 829 of 30 November 1999 of the SCC "On the Procedure for the Determination of the Origin of Goods from the Special Economic Zone in the Magadan Region", and the "Guidelines for Determining Goods as Originating from the Special Economic Zone in Magadan Region" contained in a joint Letter of the State Customs Committee and the Administration of Magadan Region No. 01-11/10593 of 25 April 2000. 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. Foreign

goods undergoing a certain amount of processing and which would qualify for the definition of sufficient processing, were deemed to be Russian goods and were not liable to import customs duties and other taxes when 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 classification (HS code); implementation of certain production and technological operations sufficient for the goods to be deemed to originate from the Special Economic Zone; and 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".

263. Members of the Working Party requested further information in order to assess whether the existing free zone in Kaliningrad, or those provided for in additional legislation, might pose certain WTO-consistency problems, notably whether incentives granted to firms establishing in the SEZs were or would be based on export performance or local content requirements. Issues raised in this connection concerned the basis on which goods manufactured in Kaliningrad were deemed to have transformed imported inputs sufficiently to eliminate the need to pay the duties and taxes exempted when the inputs were imported, and what other benefits, if any, in terms of tax exemptions, were available to firms that locate there. A description of the provisions for firms located in the special economic zones of Magadhan and Nakhodka was also requested.

264. A member supported the Russian Federation in respect of efforts made to maintain and strengthen the Kaliningrad SEZ, having in mind the geographical specificity of the region. He expressed his authorities' expectation that the accession of the Russian Federation to the WTO would maintain and not weaken the benefits of this SEZ which were vital for the overall economic development of the region.

265. Regarding the special economic zone of Magadhan the representative of the Russian Federation said that under Federal Law No. 104-FZ of 31 May 1999 "On the Special Economic Zone in the Magadan Region" firms operating in this special economic zone should be partially exempt from duties. The stated provision was valid until 31 December 2005. From 1 January 2006 to 31 December 2014 firms should be exempt from duties on profits which was further invested in the development of production and the social sphere on the territory of the Magadan Region. Foreign made goods acquired by those firms for their needs and used on the territory of the Magadan Region should be exempt from import customs duties and other charges (except customs fees) payable upon the customs registration of goods in the procedure determined by SCC.

266. Members stressed that the Russian Federation should revise its domestic laws and regulations to eliminate any measures in place in the Russian Federation's free zones or other special economic areas that were not in conformity with WTO provisions upon accession, in particular incentives tied to export requirements, other subsidies, and TRIMs, so as ensure enforcement of its WTO obligations in those zones.

267. [Members asked that the Russian Federation should consider entering a commitment to apply normal customs formalities on goods from the zones sold elsewhere in the Russian Federation, including the application of tariffs and taxes upon accession. The representative of the Russian Federation confirmed that any free zones or other special economic areas authorized in the Russian legislation, including those in paragraphs […], would be administered in conformity with WTO provisions, and that the Russian Federation would ensure enforcement of WTO provisions in the zones. The right of firms to establish and operate in these areas would not depend on export performance, trade balancing, or local content criteria. In addition, goods produced in these areas under provisions that exempt import from tariffs and certain taxes would be subject to normal customs formalities when entering the rest of the Russian Federation, including the application of tariff and taxes.]

- **Government Procurement**

268. Members of the Working Party invited the Russian Federation to provide information on its government procurement practices in particular on the existing procurement regime at both federal and sub-federal levels. Some members also expressed interest in a commitment from the Russian Federation to become an observer to the WTO Agreement on Government Procurements and to initiate negotiations for accession to this Agreement upon accession.

269. The representative of the Russian Federation replied that "procurement for state needs" (Russian legislation did not contain the term "government procurement") was governed in the Russian Federation by the following regulatory acts: the Civil Code of the Russian Federation; Federal Law No. 53-FZ of 2 December 1994 "On procurement and deliveries of agricultural goods, raw materials and foods for the state needs"; Federal Law No. 60-FZ of 13 December 1994 "On procurement of goods for federal state needs" (as amended on 19 June 1995, 17 March 1997, and 6 May 1999); Federal Law No. 597-FZ of 6 May 1999 "On tenders for placement of orders for deliveries of goods, performance of works and provision of services for state needs"; Presidential Decree No. 305 of 8 April 1997 "On priority measures to prevent corruption and reduce budget expenses in the course of organisation of procurement of goods for state needs"; and Government Resolution No. 1222 of 26 September 1997 "On goods to be procured for state needs without conducting tenders (auctions)" (as amended on 25 June 1998, 3 September 1999, and 9 January 2001). The principles and

procedures for formation, placement and fulfilment of orders for procurement and delivery of goods for state needs contained in the above-mentioned acts had been elaborated taking into consideration the provisions of UNCITRAL Model Law "On procurement of goods (works) and services" thereby corresponding to international practices in this field. The regime for procurement for state needs was transparent and non-discriminatory, provided for appellate procedures and was applied in a uniform manner both at federal and sub-federal levels.

270. Members requested further information on the status of proposed new legislation in this area, in particular on the draft federal law "On the Purchases and the Deliveries of Products for State Needs". In addition, information was also required on the involvement of the Russian government in barter trade, noting the legal basis for this as well. In response, the representative of the Russian Federation stated that required information was contained in the legislative acts noted in the preceding paragraphs and asked for clarification as to what additional information was needed in this area, taking into account that this was an issue related to a by WTO plurilateral agreement.

271. [The representative of the Russian Federation confirmed the intention of the Russian Federation to join the WTO Agreement on Government Procurement and to notify the Committee on Government Procurement to this effect at the time of its accession to the WTO and ensure that by this date, its public contracting entities would award contracts in a transparent manner according to publish laws, regulations and guidelines. He also confirmed that the Russian Federation would request observership in the Agreement on Government Procurement at the time of its accession to the WTO and would initiate negotiations for membership in the WTO Agreement on Government Procurement by tabling an Appendix 1 offer within [… time] of accession. He confirmed that, if the results of the negotiations were satisfactory to the interests of the Russian Federation and the other Members of the Agreement, the Russian Federation would complete negotiations for membership in the Agreement within [y time] thereafter.]

- **Regulation of Trade in Transit**

272. The representative of the Russian Federation said that, 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 GATT 1994 as well as on the basis of international treaties to which it was party to. The only charges levied were those for transportation commensurate with administrative expenses or with the cost of services rendered.

273. Several members of the Working Party noted that a sufficient description of Russian provisions on transit was still required to confirm whether the Russian Federation's policies for trade

in transit were in conformity with WTO provisions, in particular Article V of GATT 1994. Concerns were raised on the SCC Order No. 631 of 2 July 2001 "On the Application of Order of the State Customs Committee of the Russian Federation No. 25 of 15 January 2001" which appeared to provide for measures inconsistent with WTO requirements in this area. Questions were asked regarding the circumstances under which the Russian Federation might currently impede transit of other countries' exports through its territory; the charges for transit escort and the reasons for their application; and the provisions for the transit of goods of dual usage. A member expressed concerns about the practice of the application of specific customs procedures by the Russian authorities in respect of this member's transport companies. He noted that country-specific restrictive transit procedures were incompatible with WTO provisions, notably Articles I and V of GATT 1994. He requested the Russian Federation to ensure that these and any other country-specific measures of transit procedures would be brought into conformity with WTO requirements upon accession.

274. In response to questions on the ban on transit over the territory of the Russian Federation, the representative of the Russian Federation stated that aircrafts carrying armaments, military equipment, military property were forbidden to cross the territory of the Russian Federation by transit without making a landing on the territory of the Russian Federation. Import to, export from, and transit of explosives for industrial purposes by juridical persons over the territory of the Russian Federation as part of the accompanied or unaccompanied luggage and handle luggage, and their cargo shipment to natural persons' addresses was also forbidden. Apart from that, there was a set of special rules on transit of narcotics, substances with psychotropic effects, poisons and the substances given in tables I and II of the "Convention of the United Nations Organization Against Illegal Circulation of Drugs and Psychtropic Substances" of 1988. These rules complied with the norms of international law.

275. [The representative of the Russian Federation confirmed that the Russian Federation would apply all its laws and regulations governing transit operations and would act in full conformity with the provisions of the WTO Agreement, in particular Article V of GATT 1994.]

- **Policies Affecting Foreign Trade in Agricultural Products**

276. The representative of the Russian Federation said that the key long-term objectives of the Russian agricultural sector were the establishment of an effective and competitive agro-industrial production and the provision of a sufficient degree of food security for the Russian population. These objectives required a comprehensive program of policy measures of both a short-term and a long-term nature. Pursuant to the Protocol No. 25 of 27 July 2000 on "Priority Trends of Agri-Food Policy of the Government of the Russian Federation for 2001 – 2010", approved by the Government on 27 July 2000, the Russian agricultural sector needed first and foremost to address the problems that had been accumulated over the years preceding the reform and during the reform, and notably the sectoral

imbalance of prices and revenues which was a major adverse factor in agrarian production, low profitability, and the development of a material base.

277. He described the current priorities of the agro-food policy and the agrarian reform in the Russian Federation and provided detail on agricultural support measures and policies falling under the green and amber boxes defined under the WTO Agreement on Agriculture. He said that, taking into account such factors as the geography of agricultural production in the Russian Federation, its vast territory, actual state of development of transportation system and infrastructures supporting exports of agricultural products, use of export subsidies by some of the Russian Federation's major partners and also the prevailing conditions for competition on world agricultural markets, the Russian Government came to the conclusion that export subsidies consistent with the WTO Agreement on Agriculture could also be used. Therefore, the Russian Federation 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) the results of the on-going WTO negotiations on agriculture.

278. Members noted that a more comprehensive submission of the Russian Federation's agricultural support policies was still required. They stressed that such information was needed in order to establish a detailed description of the Russian Federation's agricultural policies on which appropriate commitments could be determined. While recognising the possibility of having recourse to "amber box" measures under the WTO Agreement on Agriculture, several members considered that in determining its requirements and level of commitments the Russian Federation should give emphasis to the use of "green box" measures that could achieve the desired reform objectives pursued by the Russian Federation in the field of agriculture. Some members further argued that in the current context they considered it inappropriate for any country to accede to the WTO with export subsidy commitments. These members stressed the need that the Russian Federation should bind its export subsidies at zero. In this respect, these members also stressed that the disciplines contained in the WTO Agreement on Agriculture on export credits, export credit guarantees or insurance programmes needed to be applied by the Russian Federation so as to avoid circumvention of the commitment not to provide export subsidies.

279. [The representative of the Russian Federation confirmed that the Russian Federation should not provide any export subsidies as from the date of accession and that it should not circumvent this commitment in any form, in particular through export credits, export credit guarantees or insurance programmes or through state trading enterprises or through food aid.]

- **Trade in Civil Aircraft**

280. [Some members of the working Party asked that the Russian Federation enter a commitment to join the Agreement on Trade in Civil Aircraft upon accession. Those members further requested that the Russian Federation should implement the agreement without exceptions and without recourse to any transitional period, and that the Russian Federation should ensure that all internal taxes would be applied to the sale or lease of civil aircraft in a non-discriminatory fashion between imported and domestically produced goods and between goods imported from third countries.]

281. In response, the representative of the Russian Federation stated that the degree of exploitation of the manufacturing facilities in the aviation industry in the Russian Federation did not exceed 10 – 15 per cent. As a result, most enterprises of the aviation sector suffered losses, thus substantially limiting the possibilities of financing the procedures for modernization of the facilities, introduction of modern manufacturing and servicing technologies. Over 50 per cent of the currently operated technological and experimental equipment required renewal. The integrated corporate structures established in the aviation sector cannot remedy the situation due to the shortage of their revenues. Possible ways out were governmental support in financing the sale of aircraft, maintaining an appropriate level of tariffs to prevent the sale on the domestic market of low-priced second hand imported aircraft. The current situation of the aviation sector made it impossible for the Russian Federation to join the Agreement On Trade in Civil Aircraft and implement its requirements.

- **Textiles**

282. Some members noted that upon its accession to the WTO, the provisions of the WTO Agreement on Textiles and Clothing (ATC) would also become relevant for the Russian Federation. In this connection, a member said that its bilateral quotas on imports from the Russian Federation of certain textile and clothing products would become the starting-point for further liberalisation under the terms of that Agreement. [In order to ensure an orderly transfer to this new status and to guarantee the benefits of ATC trade liberalisation for Russian exports, that member sought an appropriate commitment in the draft report.]

283. Another member of the Working Party stated that the quantitative restrictions on imports maintained by WTO Members on textiles and clothing products originating from the Russian Federation that were in force on the date prior to the date of accession of the Russian Federation to the WTO should be notified to the Textiles monitoring Body (TMB) by the members maintaining such restrictions and would be applied for the purposes of Article 2 of the WTO Agreement on Textiles and Clothing. Thus, for the purpose of the Russian Federation's accession to the WTO, the phrase "day prior to the date of entry into force of the Agreement on Textiles and Clothing" should be deemed to

refer to the day prior to the date of accession of the Russian Federation to the WTO. To this base level the increase in growth rates provided for in Articles 2.13 and 2.14 of the Agreement on Textiles and Clothing should be applied, as appropriate, in the Agreement on Textiles and Clothing from the date of the Russian Federation's accession to the WTO.

284. In response, the representative of the Russian Federation raised concern in respect of the application of the provisions of Article 2 of the WTO Agreement on Textiles and Clothing and stated that this issue required further clarification.

TRADE-RELATED INTELLECTUAL PROPERTY REGIME (TRIPS)

General

285. The representative of the Russian Federation said that the national system of protection of intellectual property rights complied with the basic international standards adopted in this field, including the provisions of the WTO Agreement on TRIPS. The framework of the Russian Federation's policy on intellectual property was determined by the Constitution of the Russian Federation (Article 44, item 1) which in particular guaranteed freedom of literary, artistic, scientific, technical and other types of creative activity, and provided protection for such activities. The whole system of the Russian legislation in force supported the implementation of this constitutional right. A number of international agreements signed by the Russian Federation constituted an integral part of this system. He also informed that the new Arbitration Procedure Code (Federal Law No. 95-FZ of 24 July 2002 on "Arbitration Procedure Code") would enter into force on [1 September 2002]. The draft law on amendments to the Patent Law set forth that plants, animals, layout-designs of integrated circuits, decisions that were contradictory to public interests, principles of humanity and moral were excluded from patentability.

286. He noted that the Russian Federation applied national treatment to the legal entities and individuals of those countries which had signed the treaties providing for such treatment (in particular, the Paris Convention for the Protection of Industrial Property, the World Convention on Copyright, 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) in accordance with the obligations undertaken under these treaties and in accordance with applicable 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 Federal Law No. 3520-FZ of 23 September 1992 "On Trademarks, Service Marks, and Appellations of Origin"; Article 3, Article 5:1 and Article 35:4 of Federal Law No. 5351-1 FZ of 9 July 1993 "On Copyrights and Related

Rights"; Article 7 of Federal Law No. 3523-1 FZ of 23 September 1992 "On the Legal Protection of Computer Programs and Databases"; and Articles 13 and 14 of Federal Law No. 3526-1 FZ of 23 September 1992 "On the Legal Protection of Layout Designs of Integrated Circuits"). The application of most-favoured-nation treatment (subject to exceptions regarding certain preferences granted by the Russian Federation under certain treaties including those with CIS countries) as to intellectual property was additionally provided for under the treaties signed with the European Union and Switzerland. As a party to the Euroasian Patent Convention the Russian Federation granted no advantages and privileges to other parties under this Convention. Any party to this Convention which used the procedure set out in the Convention could obtain the benefits of being a party to the Convention within the territory of any signatory.

287. Commenting on specific aspects of ongoing legislative work in the area of TRIPS and in response to specific enquires by members, the representative of the Russian Federation provided the following information.

- **Copyright and Related Rights**

288. Overall, the provisions of the Russian legislation on copyright (including those relating to protection of computer programmes 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 WTO Agreement on TRIPS. In particular, the Russian legislation protected not only personal non-proprietary rights of authors, such as authorship right, right to name, publication right, right to protect reputation of the author, but also property rights of authors which could be inherited. Thus copyrights were valid during the life of the author and during 50 years after his/her death. In certain cases stipulated by the law, the term for protection was calculated on the basis of other dates (for instance from the date of latest death of a co-author where a work had been created in co-authorship). The draft law under consideration by the Duma intended to extend the term for protection to 70 years after the death of the author. At the same time, further to the declaration made by the Government of the Russian Federation when joining the Bern Convention, the provisions of the latter did not applied to literary and artistic works which were of public property when the Convention came into force for the Russian Federation. In accordance with Article 28 of Federal Law No. 3531-1-FZ of 9 July 1993 "On Copyright and Related Rights", works for which the term of copyright had elapsed as well as works which had never been protected in the Russian Federation were considered to have become public property. The Russian authorities intended to further amend this law so as to bring it in full conformity with the respective requirements of the Bern Convention and WTO Agreement on TRIPS.

- **Trademarks**

289. Overall, the provisions of the Russian legislation relating to 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 WTO Agreement on TRIPS, except for those which governed well-known marks protection with respect to non-homogeneous goods. Additions reflecting these provisions of the WTO Agreement on TRIPS were contained in the draft federal law submitted to the Duma "On amending the Federal Law "On Trademarks, Service Marks and Appellations of Origin". The Russian legislation in force allowed for protection of well-known trademarks. The legal basis was Articles 2 and 7 of the Federal law No. 3520-FZ of 23 September 1992 "On Trademarks, Service Marks and Appellations of Origin" as well as the Regulation on recognition trademark as well-known in the Russian Federation. The legislation did not require the registration of well-known trademarks. Nevertheless, any trademark pretending to be well-known should be recognized as such by a competent authority, i.e. the Higher Patent Chamber of Rospatent. Such a procedure of granting protection was fully consistent with Paris Convention. The provisions of criminal and civil legislation applicable to "ordinary" trademarks were also applicable to well-known trademarks. Among the remedies there were the recognition of the right, prevention of the violation, compensation of losses, criminal and administrative liability.

- **Geographical Indications**

290. Prior to 1992 geographical indications in the Russian Federation 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 -antimonopoly- agencies or courts respectively). Since 1992 one important category of geographical indications - appellations of origin - was accorded special protection through their State registration in line with the procedure set forth in the Federal Law No. 3520-FZ of 23 September 1992 "On Trademarks, Service Marks and Appellations of Origin". Protection for such types of geographical indications was provided for under Article 6 of the said law which prohibited to register trademarks containing indications of the place of production of goods as well as trademarks containing false indications or indications which might mislead the customer as to the identity of the producer of goods. Protection of appellation of origin existed for all kind of goods – food and manufactured goods alike. According to Article 47 of the same law, the right to register an appellation of origin in the Russian Federation was granted to persons and legal entities of those states that provided similar rights to Russian persons and legal entities.

291. On the whole, the provisions in accordance to which geographical indications were protected in the Russian Federation were in conformity with the Paris Convention for the Protection of Industrial Property and the relevant provisions of the WTO Agreement on TRIPS. The draft law "On

amendments to Federal Law No. 3520-FZ "On Trademarks, Service Marks and Appellations of Origin" would allow protection not only for appellation of goods duly registered in the Russian Federation but for geographical indication of wines and spirits as well, in line with the provisions of Article 23.3 of the WTO Agreement on TRIPS. Such additional protection was not maintained for any other goods.

- **Inventions and Industrial Designs**

292. On the whole, the provisions of Federal Law No. 3517-FZ of 23 September 1992 "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 WTO Agreement on TRIPS. The draft law "On amendments to the Patent Law of the Russian Federation" reflected the provisions of Article 31 of the WTO Agreement on TRIPS by extending the scope of currently existing provisions on "compulsory licensing". Under this draft law, a patent might not be obtained in relation to the following: plant varieties, animal breeds, solutions violating social interests or humanitarian and moral principles. This amendment corresponded to Article 27.3 of the WTO Agreement on TRIPS. Under the Patent Law in force, the validity term of patents for all kind of inventions was 20 years, starting from the date when the application was submitted. This term corresponded to the relevant provisions of Article 33 of the WTO Agreement on TRIPS. Moreover, the amendment to this law provided for the possibility of extending such term for pharmaceutical products (medicines), pesticides and agricultural chemicals, if their use had been based on a consent of an authorized state body. In these cases, the general 20 year term might be extended for up to 5 years.

- **Plant Variety and Animal Breed Protection**

293. Plant varieties and animal breeds were protected in accordance with Federal Law No. 5605-1 FZ of 6 August 1993 "On Selection Attainments". The provisions of this Law, in the Russian Federation's view, were in conformity with the WTO Agreement on TRIPS and the UPOV Convention (International Union for Protection of New Varieties of Plants) to which the Russian Federation became a member in 1998.

- **Layout Designs of Integrated Circuits**

294. Layout designs of integrated circuits were protected in accordance with Federal Law No. 3526-1 of 23 September 1992 "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). In addition, the Federal Law No. 82-FZ of 9 July 2002 "On amendments to the Law "On Legal Protection of Layout Designs

of Integrated Circuits" contained provisions aimed at satisfying the requirements of the WTO Agreement which were additional to those of the Washington Treaty.

- **Requirements on undisclosed information, including trade secrets and test data**

295. Protection of undisclosed information, as in Section 7 of the WTO Agreement on TRIPS, was ensured in the Russian legislation by virtue of Article 139 of the Civil Code. In particular, this article stipulated legal protection of undisclosed information which constituted official or commercial secrets. In addition, the acquisition, 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 Federal Law No. 948-1 of 23 March 1991 "On Competition and Restriction of Monopoly Activity on Commodity Markets". The provisions of the above-mentioned laws prohibited the use of undisclosed information without the consent of the right holder. All these provisions were applicable to the protection of confidential (undisclosed) information related to pharmaceutical and argochemical products containing new chemical substances. Following the opinion of the Ministry of Health of the Russian Federation the term of six years was sufficient to protect undisclosed information obtained during clinical tests of new medicines. In the event that protection of undisclosed information could endanger the human life and health such information could be published before the expire of this term.

- **Enforcement**

  - **Criminal Measures**

296. Since 1999 there had been a special department dealing with intellectual property crimes within the Main Economic Crime Division of the Ministry of Interior (and its regional departments). As for criminal sanctions, the Criminal Code of 13 June 1996 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 other intellectual property violations no imprisonment had been provided until December 2001 where a new paragraph was introduced to the Criminal Code providing for liability for illegal use of trademarks. In addition to fines, this paragraph stipulated that sanctions up to five years of imprisonment. The legislators continued their work on the Criminal Code with a general intention of establishing an even wider scope of liability.

297. Since intellectual property crimes were not considered to be "grave" crimes, enforcement bodies used other articles of the Criminal Code where 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 1,117 cases on copyrights and related rights violations. In 1999, 125 illegal

manufacturing facilities were closed down and 30 million illegal units were confiscated. In 2000, 334 manufacturing facilities were closed down and 50 million units were confiscated. Confiscation of illegal goods, materials and equipment used for their manufacturing was not directly stipulated under Articles 146, 147 and 180 of the Criminal Code. It was normal practice, however, to confiscate these goods and machinery as material evidence. For the illegal copies, the right holder could request to take them. For machinery, the matter had to be decided by courts. Concerning the Superior 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. Where a court did not order confiscation of illegal goods in civil proceedings, the right holder might appeal.

- **Criminal Procedure**

298. In accordance with the legislation in force, the enforcement bodies had no responsibility for discovering or identifying criminal violations. Since intellectual property violations were within the category of private accusation, criminal procedure could not be initiated without a complaint by the right holder. The time limits for investigation in accordance with the Criminal Procedure Code was initially 10 days and 30 days for the final decision in complex cases. Normally, the statement that the goods were counterfeit was made by the right holder. Official state examination might be done by the Centre for Expertise of the Ministry of Interior. At the request from an anti-trust or law enforcement body and on the basis of a relevant court order, Rospatent experts provided an opinion regarding a trademark, invention or another intellectual property issue. An investigator, prosecutor or court would then make a decision based on the results of the examination. The examination initiated by the law enforcement bodies was free of charge.

- **Administrative Measures**

299. A new Code of Administrative Offences was in force since 1 July 2002. Articles 7.12, 7.28 and 14.10 of this Code established liability for violation of copyrights and related rights, rights to inventions, useful models and industrial designs, service marks and appellation of origin. The administrative sanctions, in addition to fines, included confiscation of counterfeit products. In addition, anti-monopoly legislation provided certain sanctions that were administered directly by the Ministry of Anti-monopoly Policy and Support for Business. 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 one and two months, and in complicated cases between three and six months.

- **Border Measures**

300. Article 10 of the Customs Code referred intellectual property protection to the competence of the Customs authority. Since 1998, the State Customs Committee accepted applications from right holders 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. The Code of Administrative Offences in force since 1 July 2002 introduced administrative liability for import of goods violating intellectual property rights.

301. At present, the Customs Code did not allow the Customs bodies to act fully in accordance with the all provisions of the WTO Agreement on TRIPS 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 issues as well. When goods were detained, the Customs had ten 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. According to the existing practice, if during this period a violation of intellectual property was confirmed, the Customs transferred the evidence to the Police and prosecutors, and, since 1 July 2002, the Customs would also draw up a protocol of administrative offence. The right holder could then bring a civil law case to the court. As for the possibility of obtaining from the Customs bodies information about the infringing company, its history and activity, the new draft Customs Code stipulated that such information would be available in relation to importers as well as imported goods.

- **Civil Law Remedies and Procedures**

302. The Higher Arbitration Court of the Russian Federation had drafted a Code of the Arbitration Procedure Code which was currently under examination by the Duma. This draft code reflected the latest international developments in the organisation and administration of economic justice, and established new mechanisms essential for an effective application the WTO Agreements. For example, these mechanisms included preliminary interim measures which would promote realisation of Section 3 of Article 44 of the WTO Agreement on TRIPS. The draft code also contained an updated section on consideration of economic disputes with participation of a foreign party which introduced application of the principle of reciprocity in the enforcement of court orders and awards; national treatment for foreign participants in respect of the procedure; and the abandonment of the principle of absolute immunity. Remedies available under the Civil Code included confirmation of rights; prohibition of actions violating rights; imposing fines; compensation of damages caused to

the right holder; and compensation of income received by the infringer and statutory compensation. The last two measures were available only for copyrights.

303. Regarding claims for damages and assessment of damages, civil law cases provided for the general principle of full recovery of damages. The amount of damage was calculated in accordance with the general norms of the Civil Code based on the prices of corresponding legitimate goods adjusted for actual damage and forgone profit of the right holder. As for the statutory compensation, it was initially defined by the plaintiff who had the burden to prove the fact of damage caused 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 final decision on the amount of compensation rested with the court. Regarding provisional measures under Article 75 of the Arbitration Procedure Code, 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 was filed without the representatives of the parties. Under the current legislation, any petition for provisional measures could be filed after the civil procedure was initiated. However, the draft amendments to the Code of Arbitration Procedure proposed to allow provisional measures to be obtained before filing the claim.

304. [Noting all the above, members of the Working Party sought a commitment that the Russian Federation would be in compliance with the WTO Agreement on TRIPS, including its enforcement provisions, as from the date of accession, without recourse to transitional arrangements. The representative of the Russian Federation confirmed that the Russian Federation would apply fully the provisions of the WTO Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS) from the date of accession to the WTO, including provisions for enforcement, without recourse to any transitional period. He confirmed that the Russian Federation would provide effective protection against unfair commercial use of undisclosed test or other data submitted to authorities in the Russian Federation, in support of applications for marketing approval of pharmaceutical or of agricultural chemical products which utilised new chemical entities, for a period of at least six years from the date on which the Russian Federation granted marketing approval to the person submitting the data. He also confirmed that the Patent Law would be amended to better specify the legal framework for decision-making with respect to issuance of compulsory licenses (this amendment would put the Patent Law in conformity with the requirements Article 31 of the TRIPS Agreement); the Draft Law on Trademarks would bring the Russian legislation in this area in conformity with TRIPS requirements (including immediate publication after registration, additional protection for well-known trademarks against bad faith registration and use on dissimilar goods, and additional protection against trademarks registration containing geographical indications); the draft law on the introduction

of amendments and addenda to Federal Law "On Legal Protection of Topologies of Integrated Circuits" would implement all the TRIPS requirements in this area and would ensure the granting of protection against articles embodying an integrated circuit containing an unlawfully reproduced topography; the draft federal law on introduction of amendments and addenda to Federal Law "On Legal Protection of Computer Programmes and Databases" would make clear its relationship, as 'lex specialis' to the Copyright law and that the Russian Federation would implement all TRIPS obligations with respect to Computer software and Databases; the draft federal law on introduction of amendments and addenda to Federal Law "On copyright and related rights" would introduce amendments that will allow the application "in toto" of the provisions of Article 18 of the Berne Convention to foreign works and phonograms, including the granting of retroactive protection to foreign works or phonograms; and that current revisions of Criminal Code and the Criminal Procedure Code, the Civil Procedure Code and the Code of Arbitration Procedure and the Customs Code would allow for the correct implementation of Articles 41-61 of the WTO Agreement on TRIPS and the enforcement by the Russian Federation of intellectual property rights.]

TRADE-RELATED SERVICES REGIME

Policies Affecting Trade in Services

305. The representative of the Russian Federation noted that the Russian market for services began to develop only in the first part of the 1990s, following the domestic process of economic reforms, privatisation and 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, reaching about 55 per cent in 2000 (28 per cent in 1991). Although the Russian Federation's share in world trade in services was not yet significant, the contribution of services to the country's total trade was not negligible (in 2000, the Russian Federation' s share of trade in services in the world' s trade in services was just over 1 per cent). The balance of foreign trade in services 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 the Balance of Payments).

306. The reform of the Russian economy during the last decade called into being 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 an unstable market structure. As "infant industries', those services sectors were liable to positive and negative economic and social variations that could have a serious impact on the economy as a whole. In these circumstances, the Russian Federation needed to retain the possibility of having recourse to certain temporary measures aimed at the maintenance of a normal competitive environment, balance and integrity of markets, social stability and employment.

307. The economic developments in services were supported by the legislative process. Many laws and regulations were adopted to establish a legal framework for provision of services in general (such as the Civil Code or the law on foreign investments) or in specific sectors. However, the dynamism of services markets was still not adequately reflected by the domestic regulatory system. As an example, the Russian banking crisis in August 1998 was particularly associated with inadequate approaches to, and lack of effective prudential arrangements in, the established banking activities following the extreme dependence of the domestic financial system from the situation in short-term foreign capital markets. For the purposes of creating a favourable economic and investment climate, including in the sphere of services, the Russian Federation had embarked on a series of measures to reduce restraints on the economy involving streamlining of the procedures of company registrations, downsizing the list of types of activities subject to licensing and a reduction of the 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. In the view of the Russian authorities this possibility did not contradict GATS provisions which recognized the right of Members to regulate and to introduce new regulations on the supply of services within their territories in order to meet national policy objectives.

308. Under the existing legal framework some types of services were subject to licensing. Legislative reform was however underway to resolve restraints on the service economy. Some of the laws, which had been passed in regard to this reform were: Federal Law No. 129 – FZ of 8 August 2001 "On State Registration Of Juridical Persons"; Federal Law No. 128 – FZ of 8 August 2001 "On Licensing Of Certain Types Of Activities"; and Federal Law No. 134 – FZ of 8 August 2001 "On Protection Of Rights Of Juridical Persons And Individual Entrepreneurs In The Procedure Of Inspection Conducted by the State". The foregoing laws were meant to ease the procedure of the registration of juridical persons by the state, reduce substantially the number of activities to be licensed and reduce the frequency of enterprise inspections.

309. The regulation of the provision of services in the sphere of construction was under joint control of the Russian Federation and subjects of the Russian Federation. The basic normative acts on the regulation of the provision of services in the sphere of construction included: Civil Code of the Russian Federation; provision "On Licensing Of Works Of Mounting, Repairing And Servicing Of Anti-Fire Equipment Of Buildings And Constructions" (approved by Government Resolution No. 373 of 31 May 2002); provision "On licensing of works on the design of buildings and constructions of the 1st and 2nd levels in accordance with the state-set standards" (approved by Government Resolution No. 174 of 21 March 2002); and provisions "On licensing of works on the construction of

buildings and constructions of the 1st and 2nd levels of liability in accordance with the state-set standards" (approved by Government Resolution No. 174 of 21 March 2002).

310. These normative acts were applied uniformly on the whole territory of the Russian Federation. The procedure for filing of an appeal against decisions made by the state authorities, local administration, public unions and individuals in authority was described in paragraphs 19 and 20 of document WT/ACC/SPEC/RUS/25/Add 2.

311. He further noted that 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 capable of creating favourable conditions for enterprise operation, capital and technology inflow and encouraging access to the subsoil and natural resources on the basis, inter alia, of production sharing and concession agreements.

312. Several members of the Working Party stressed the need for more information on the Russian Federation's progress towards establishing the required inquiry point and other transparency and procedural requirements for complying with the GATS. These members requested confirmation that, in services sectors requiring licensing, foreign natural and juridical persons needing activity licenses could obtain them on the same terms as Russian natural and juridical persons. Some members noted that the Russian Federation had used the "infant industry" argument to justify a certain level of protection to its services sector and asked how the Russian Federation would implement measures in this regard, considering that the GATS did not contemplate any safeguards mechanism.

313. Regarding the banking sector, some members expressed concern that the two largest commercial banks in the Russian Federation (Sberbank and Vneshtorgbank) were currently owned by the CBR. Taken together these two banks held a dominant position on the Russian market and their ownership by the CBR created a clear potential conflict of interest with the CBR's prudential and other tasks. While welcoming the information on plans to divest the CBR holdings in commercial banks, these members invited the Russian Federation to indicate a firm date by when the ownership of these banks and their commercial activities would be legally and in practice separated from the CBR. In addition, these members expressed further concern about the distortions of competition created by the unlimited (i.e. 100 per cent) state guarantee given to deposits in accounts held with Sberbank. No state guarantee at all existed for deposits held in accounts with other banks, whether Russian or foreign. As this would foster equal conditions of competition in the Russian banking sector and would help improve the solidity and functioning of the financial sector more generally, these members

expected that the Russian Federation would commit by an agreed timeframe to divest or bring under the responsibility of another branch of government the commercial activities of the CBR and to ensure that there was no discrimination between established banks as regards the guarantee of deposits. One member of the Working Party expressed concern over the current regulations of the CBR regarding qualification of certain countries as off-shore zones and other discriminatory measures in the banking sector and requested the Russian Federation to bring these regulations in conformity with internationally recognized practices.

314. In response, the representative of the Russian Federation provided additional information on the Sberegatel'ny Bank, Vneshtorgbank and the system of guaranteeing personal deposits. The Sberegatel'ny Bank of the Russian Federation (Sberbank) was a credit organization which played a leading role in the personal deposits market. In the near future, the CBR intended to retain its controlling stake in Sberbank since issues of the CBR's withdrawal from its capital and changes of the structure of its shareholders were closely connected to the creation of a system of guaranteeing deposits and with prospects for the entry of Sberbank into such a system. Sberbank's participation in the system of guaranteeing deposits had already been deemed feasible. The issue of the conditions and procedure for its entry would be resolved as the draft Federal Law "On Guaranteeing the Repayment of Deposits of Physical Persons in Banks of the Russian Federation" was developed. Article 8 of the re-edited version of Federal Law No. 86-FZ of 10 July 2002, "On the Central Bank of the Russian Federation (the Bank of Russia)", established that the CBR would withdraw from Vneshtorgbank's capital prior to 1 January 2003. Thereafter, the issue of the sale of a part of Vneshtorgbank's shares to international financial organisations and private investors would be considered.

315. He added that the CBR participated in the capitals of the following credit organisations created on the territories of foreign states: Donau-bank AG, Vienna; East-West United Bank, Luxemburg; Commercial Bank for Northern Europe – Eurobank, Paris; the Moscow National Bank Ltd., London; Ost-West Handelsbank AG, Frankfurt-on-Main. Under the Federal Law "On the Central Bank of the Russian Federation (the Bank of Russia)", the CBR's participation in the charter capitals of these banks was reduced or alienated in the procedure and deadlines determined by the CBR as approved by the Government of the Russian Federation.

316. The Government of the Russian Federation and the CBR assumed that the creation of an effective system of guaranteeing citizens' deposits would enable public confidence in the banking sector to be regained would allow banks' resource base to be broadened, including the financing of the real economy, and would strengthen competition on the market of attracting personal deposits. The reliability of the system of guaranteeing deposits was of principal importance. The Government of

the Russian Federation, jointly with the CBR, was preparing, for introduction to the State Duma, a draft federal law, envisaging the following provisions:

- only financially stable banks whose status had been assessed using internationally acknowledged approaches might be admitted to the system of guaranteeing deposits;

- the system of guaranteeing deposits would be created in two stages. Following the adoption of the Federal Law "On Guaranteeing Physical Persons' Deposits", a transitional period (Stage 1) would be introduced, envisaging banks' voluntary inclusion in the system. Banks not included in the system would retain the right to attract deposits from physical persons;

- Stage 2 would commence upon the expiry of a year following the transfer of credit organisations to international accounting and financial reporting standards. At this stage, banks attracting deposits from physical persons will be obliged to participate in the system of guaranteeing deposits. Those banks not included in the system would be deprived of the right to work with physical persons' funds.

317. Regarding the construction sector, some members of the Working Party noted that services suppliers to the Russian market were subject to multiple approvals for each single aspect of their operation and that the procedural requirements for obtaining these approvals were generally non-transparent and applied in an non-consistent manner over time and in different geographic areas of the Russian Federation. Those members asked how the new legislative acts that the Russian Federation intended to enact on "debureaucratisation" would ensure that domestic regulations concerning construction-related activities would be no more burdensome that necessary to guarantee the quality of the service and would not constitute unnecessary barriers to trade in this area. They further asked whether these new legislative acts would also establish any principles for the administration of these regulations, in particular ensuring consistency of implementation in the entire territory of the Russian Federation, and what legal procedures would be available to services suppliers who wished to appeal against administrative decisions.

318. Regarding the energy sector, some members noted that the Russian Federation had so far made no commitments on mining, oil drilling and pipeline services. In this regard, these members requested details of the relationship, if any, between the lack of any commitments in these activities and the exercise of the Russian Federation's sovereign rights over its subsoil and mineral and energy resources. They further asked a clarification on the Russian Federation's intentions in respect of the development of a market environment in relation to the provision of mining, oil-drilling and pipeline services and whether these would be consistent with the role that the Russian Federation saw for the conclusion of production sharing agreements and concession arrangements.

319. One member of the Working Party expressed deep concern over the Russian Federation's maintenance of a discriminatory regime with regard to the supply of services on the Russian Federation's services' market by his country's nationals residing in different regions of his country,

under the mode of supply –"commercial presence" and "movement of natural persons". A member requested the Russian Federation to make the necessary adjustments in order to avoid discriminatory treatment and to allow all his nationals to provide services on the Russian market on an equal footing. Another member requested confirmation regarding the Russian Federation's intention to introduce international accounting standards (IAS) adopted by the International Accounting Standards Board (IASB) for banks by 1 January 2004 and for all listed companies by 1 January 2005. That member asked the Russian Federation to confirm this information and indicate the steps by which it intended to achieve this objective. He also requested the Russian Federation to provide information on the actual application of IAS by Russian companies. Another member asked whether the financial measures described by the Russian Federation in relation to currency regulations and controls were not already covered by Article XII of the GATS and paragraph 2 of the Annex on Financial Services.

320. The representative of the Russian Federation replied that in the services sectors inscribed in the Russian Federation's Schedule of Specific Commitments, WTO Members' nationals who were services suppliers should be accorded treatment no less favorable than that provided for under the terms, limitations and conditions and subject to qualifications specified in its Schedule as it was provided by GATS. He also noted that the requirement for establishing a GATS enquiry point was being addressed. He further noted that the Russian Federation had a limited number of bilateral agreements related to debt settlements and technical assistance measures resulting from agreements on legal assistance which contained some preferential provisions. The Russian Federation understood that WTO provisions should not be construed as preventing the Russian Federation implementing these bilateral agreements for the period of their validity. For the purpose of the protection of interests of investors, depositors and policy-holders, the 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 applying 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.

321. 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 power and local self-governmental bodies, subject to specific services obligations. These services

were universal and were supplied on the basis of public contract. These measures were applied on non-discriminatory basis with respect to foreign services suppliers.

322. The policy of the Russian Federation in preserving, developing, and disseminating culture, required that an authorization could be required with respect to the acquisition of control over a juridical person of the 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.

323. For the purpose of the protection and preservation of indigenous persons and exiguous ethnic communities, measures directed at the protection and preservation of the territories of the 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.

324. For the purpose of national security reasons, the Russian Federation could use measures to regulate economic and entrepreneur activities 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.

325. [Members of the Working Party stated that they expected the Russian Federation to make a commitment to guarantee transparency of licensing requirements and procedures, qualification requirements and procedures as well as of other authorisation requirements, in particular with respect to obtaining, extending, renewing, denying and terminating licences and other approvals required to provide services in the Russian Federation's market and appeals of such actions. The Russian Federation's licensing procedures and conditions should not in themselves act as a barrier to market access and should not be more trade restrictive than necessary. The Russian Federation should publish a list of authorities responsible for authorising, approving or regulating those service sectors in which The Russian Federation makes specific commitments and the Russian Federation's licensing procedures and conditions. Members also expected the Russian Federation to make a commitment to guarantee that for those services that would be included in the Russian Federation's Schedule of Specific Commitments, relevant regulatory authorities would be separated from, and not accountable to, any service suppliers they regulate. Members further expected the Russian Federation to make a commitment to guarantee that foreign service suppliers remain free to choose their partners.]

326. [In response, the representative of the Russian Federation noted that with respect to transparency of licensing requirements and procedures, qualification requirements and procedures as

well as other authorization requirements, the Russian Federation would make commitments in accordance with GATS and as provided for under the terms, limitations and conditions and subject to qualifications specified in its Schedule.]

TRANSPARENCY

- Publication of Information on Trade

327. Members of the Working Party requested a description of the legal authorization to implement Article X and the other transparency provisions required under WTO Agreements together with a confirmation that these provisions would be applied upon accession. A clarification was particularly sought on where the Russian Federation' s laws, decrees, resolutions, orders, letters, etc. were published to fulfill the requirements of Article X and the other transparency provisions in WTO Agreements.

328. The representative of the Russian Federation replied that in accordance with Article 15.3 of the Constitution of the Russian Federation, laws and other regulatory acts relating to human rights, freedom and duties were subject to official publication. This provision was developed in Federal Law No. 5-FZ of 14 July 1994 "On the Procedures of Publishing and Entering into Force of Federal Constitutional Laws, Federal Laws, Acts passed by the Chambers of the Federal Assembly"; and Presidential Decree No. 763 of 23 May 1996 "On the Procedures of Publication and Entering into Force of the Acts of the President of the Russian Federation, the Government of the Russian Federation and the Normative Legal Acts of the Federal Executive Bodies". According to Article 4 of the said federal law, the date of publication of a federal constitutional law, federal law or an act passed by the Chambers of the Federal Assembly should be the date of the first publication of their full text in the "Parlamentskaya Gazeta", "Rossiyskaya Gazeta" or in the digest 'Sobraniye Zakonodatelstva Rossijskoj Federatsii". Federal constitutional laws, federal laws and acts of the Chambers might also be published in other press organs and brought to general knowledge through media, distributed to state authorities, officials, enterprises, establishments and organisations, transmitted via communication channels or distributed in machine-readable formats.

329. He added that in accordance with paragraph 2 of the said Presidential Decree, acts of the President of the Russian Federation and acts of the Government of the Russian Federation were subject to official publication in the "Rossiyskaya Gazeta" and in the digest 'Sobraniye Zakonodatelstva Rossijskoj Federatsii" within ten days after their signing. Distribution of the acts of the President and the Government in a machine-readable form by the scientific and technical centre of legal information "Systema" was also deemed to constitute an official publication. Moreover, in accordance with paragraph 9 of the same Presidential Decree, regulatory legal acts of the federal

bodies of executive power related to human rights, freedom and duties or establishing the legal status of organisations or acts of inter-departmental nature were subject to official publication in the "Rossiyskaya Gazeta" within the days of their registration, and also in the "Bulletin of Normative Acts of the Federal Bodies of Executive Power" published by the publishing house "Yuridicheskaya Literature" of the Administration of the President of the Russian Federation. This Bulletin was distributed in a machine-readable form by "Systema".

330. [The representative of the Russian Federation confirmed that from the date of accession all laws, regulations, decrees, decisions, judicial decisions and administrative rulings of general application related to trade would be published promptly in a manner that fulfils the WTO requirements, including Article X of GATT 1994. As such, no law or regulation related to international trade would become effective prior to such publication in one or more official publication specifically identified for this purpose from the date of accession. He also confirmed that the Russian Federation would observe the transparency requirements of the GATS, particularly Article II, from the date of accession.]

- **Notifications**

331. [Members of the Working Party sought a commitment that the Russian Federation would provide, as from the date of accession, initial notifications for all WTO Agreements, and that regulations subsequently enacted by the Russian Federation which would give effect to the laws enacted to implement any of the WTO Agreements would also conform to the requirements of that Agreement. The representative of the Russian Federation confirmed that upon accession, the Russian Federation would submit all initial notifications required by any Agreement constituting part of the WTO Agreement. Any regulations subsequently enacted by the Russian Federation which gave effect to the laws enacted to implement any Agreement constituting part of the WTO Agreement would also conform to the requirements of that Agreement.]

FREE TRADE AND CUSTOMS UNION AGREEMENTS

332. Members of the Working Party noted that it was customary to provide a detailed description of the scope, nature, and status of all preferential arrangements. This was required to ensure that the value of MFN commitments negotiated in the schedules would be known to all parties. They felt that the Russian Federation should consider how to improve the information needed in this regard.

333. The representative of the Russian Federation said that, in accordance with the Russian Federation'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 these 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. He added that a number of agreements, aimed at a step-by-step formation of a customs union, had been signed between the Russian Federation and the Republic of Belarus, the Republic of Kazakhstan, the Republic of Tajikistan and the Kyrgyz Republic. These agreements had been transformed into a single "Agreement on the Establishment of the Eurasian Economic Community" taking effect on 30 May 2001. Pursuant to Article 6 of this Agreement, a customs tariff common for the Russian Federation, 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 the Russian Federation as a WTO member, including, inter alia, the provisions of Article XXIV of GATT 1994 and Article V of the GATS.

334. He said that trade agreements in specific sectors concluded with several WTO Members and falling into the definition of "voluntary export restraint agreements", covered different products such as steel and steel products, certain fertilizers, textiles and sport weapons. As it was not the intention of the Russian Federation to continue these agreements which were not in conformity with WTO provisions, the Russian Federation intended to propose to its other parties either to bring them into conformity with the WTO or to terminate them as from the date of the Russian Federation' s accession to the WTO.

335. Members of the Working Party required further clarification on how the Russian Federation intended to ensure compliance between its process of accession to the WTO and its commitments undertaken in the framework of the Customs Union, notably with respect to the establishment of a common external tariff considering that a Customs Union country was already member of the WTO. Some Members sought fuller explanation of the reasons why MFN exemptions would be needed in the Russian Federation's GATS Schedule if, as the Russian Federation had claimed, the customs union arrangements would be in conformity with Article V of the GATS. Another member enquired whether the Russian Federation would confirm that preferential access to exports of other CIS countries to the Russian market was limited to exporters resident in the exporting country as, if this was the case, this provision would be inconsistent with WTO obligations.

336. [Members of the Working Party sought a commitment that the Russian Federation would observe Article XXIV of the GATT 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 were met upon accession, and that any subsequent legislation or regulations enacted or altered under these agreements would remain consistent with the provisions of the WTO. More specifically, the Russian

Federation should notify its Free Trade Areas, Customs Union, and Economic Union Agreements for review by the Committee on Regional Trade Agreements (CRTA) upon accession. The representative of the Russian Federation confirmed that his Government would observe the provisions of the WTO including Article XXIV of 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 the Russian Federation was a member were met from the date of accession. He confirmed that the Russian Federation would, upon accession, submit notifications and copies of its Free Trade Area and Customs Union Agreements to the Committee on Regional Trade Agreements (CRTA). He further confirmed that any legislation or regulations required to be altered under its Trade Agreements would remain consistent with the provisions of the WTO and would, in any case, be notified to the CRTA during its examination of the same.]

Conclusions

337. [to be completed]

Table 1

Currency Restrictions on Current Currency Operations
identified by the IMF Expert Group Report on the Basis of
Interviews Conducted with the Russian Federation authorities under
Article IV (Exchange Arrangement) of the IMF Agreements

I-III	**Restrictions on "S" type Ruble accounts operations of non-residents (three out of six restrictions mentioned in the IMF Restrictions Expertise Report relate to such accounts)**
	"S" type accounts are non-resident Ruble accounts which were opened with authorized banks licensed by the Bank of Russia. The accounts were subdivided into "S" type accounts (conversing) and "S" type accounts (investment). The Bank of Russia was authorized to establish intermediate transit accounts through a special regime. These accounts were used to transfer Rubles from type "S" investment account to type "S" conversing account for further purchase of foreign currency and repatriation of means. "S" type accounts could be opened by both non-residents with juridical person status (including those who did not have representation or a branch office on the territory of the Russian Federation) and non-residents with natural person status (including those who were not individual entrepreneurs). Non-residents had the right to have "S" type accounts in more than one bank, to transfer their means to the accounts of other non-residents held with the same authorized bank or with other authorized banks. Non-residents were also free to transfer means from their conversing and investment "S" type accounts with one authorized bank to their appropriate "S" type accounts held with other authorized banks (except the means which had entered transit accounts). Under the Russian Federation's legislation non-residents could draw the means from "S" type accounts to purchase the following securities: - state short-term voucher-free bonds; - federal loan bonds; - Russian Federation's emitters' corporate bonds (a different credit rating from sovereign bonds of no more than two grades) which were included into the trade organizers' first grade quoting list; - Russian Federation's emitters' shares included into the trade organizers' first grade quoting list; - Russian Federation subjects' bonds (a different credit rating from sovereign bonds of no more than two grades). Under the Russian Federation's foreign exchange regulation and control legislation non-residents' operations with the above securities were referred to portfolio investments, which were not current operations under his legislation. Regulations established by the Bank of Russia in relation to operations with securities did not therefore contradict Article VIII of the IMF Agreements and other international agreements. Restrictions on "S" type accounts were introduced as a result of the August 1998 default to prevent aggravation of the crisis. Overcoming the crisis made the regime of the "S" type accounts more liberal and thus made it possible for non-residents to use the means of these accounts for investment into residents' businesses as part of the capital of the businesses and for providing purpose loans to residents, to reduce the terms of the existence of the means on transit accounts from 365 days to 120 days, and transfer means and securities between "S" type accounts which belong to different non-residents. The Bank of Russia held auctions on the sale of foreign currency of the owner of the means which are on "S" type accounts. There were no limits for the transportation of the currency which has been purchased at such auctions. The process of making such accounts more liberal would continue.

IV.	**Non-residents' "N" type Ruble accounts operations (non-conversing)**
	Non-residents had the right to use Rubles including those in "K", "N", "F" accounts when making payments in the territory of the Russian Federation. The mechanism of converting the means on the accounts stated was based on the principle of division of residents' payments to non-residents and depending on whether the operation carried out prior to the payment was one under which the Russian Federation was obliged to provide convertibility in accordance with international contracts and federal laws. For non-residents' "N" type Ruble accounts, a special procedure for conversion was established when conversion only occurred 365 days after filing a commission for the purchase of foreign currency to the authorized bank by a non-resident. There would be no restrictions on non-residents transferal abroad of foreign currency received from this conversion
V.	**Restrictions on the transfer of foreign currency as an advance payment for import by residents**
	Currency regulation and control legislation covered operations for advance payments made for the import of goods, works, services, results of intellectual activity by residents for a period exceeding 90 days from the day of transfer of the foreign currency up to the day of the transportation of goods. Procedures were determined by the Central Bank of Russia in conformity with the Russian Federation's commitments under Article VIII of the IMF Agreements. Permits for importers to transfer foreign currency from the Russian Federation (foreign currency entering the account of a non-resident supplier with an authorized bank) were required for: - payment for imported goods if the time between the currency transfer and entry of the goods into the Russian Federation exceeded 90 days under the Order of the Central Bank of the Russian Federation No. 39 of 24 April 1996 "On the Change of the Procedure for Performing Certain Kinds of Currency Operations in the Russian Federation" (to be submitted), except cases which were envisaged by Federal Law No. 3615-1 of 9 October 1992 of the Russian Federation "On Currency Regulation And Control" (WT/ACC/RUS/36 refers); - payment for services provided by non-residents, works and results of intellectual activity, if the time between the currency transfer and provision of the services exceeded 90 days under Regulations of the Central Bank of Russia No. 157-P of 24 October 2001 on the "Procedure for Settling Accounts between Residents and Non-residents under Contracts of Carrying Out Works, Rendering Services or Transfer of Intellectual Activities' Results" (to be submitted). The issuance of permits for the above operations was determined by normative acts of the Bank of Russia (also by Order of the Central Bank of the Russian Federation No. 02-378 of 11 October 1996 "On Putting into Effect of the Provisional Procedure for Granting Permits by the Chief Administration (National Banks) of the Central Bank of the Russian Federation for Particular Foreign Currency Operations" (to be submitted)). Permits were issued by (i) branch offices of the Bank of Russia, if that the advance payment determined by the import contract did not exceed US$10 million (or equivalent) or (ii) the central office (headquarters) of the Bank of Russia (Department of Currency Regulation And Control) of this amount was exceeded, and (iii) the central office (headquarters) of the Bank of Russia (Department of Currency Regulation And Control) if the transfer is for advance payment for import of services, works, the results of the intellectual activity. Permits of the Central Bank of the Russian Federation authorizing the above operations were issued exclusively to resident importers of the Russian Federation. Permits were granted on submission of the following documentation to the Bank of Russia territorial division of the place of the importer's registration, or to the Department of Currency Regulation and Currency Control of the Bank of Russia (depending on the nature of operation and the amount of advance payment): - application written in a free form, signed by the manager of the importing organization; - notarized copies of foundation documents of the importer; - notarized copies of the state registration document of the importer; - a reference letter from the Tax Inspectorate concerning Ruble and current accounts opened for the importer with the authorized banks of the Russian Federation; - reference letters from the tax authority which performed the importer's registration as taxpayer confirming that the importer did not have any tax debts or other outstanding duty payments and was in compliance with tax legislation (where there were any obligations outstanding the permit might still be issued subject to consent of the Ministry of Finance of the Russian Federation or the Ministry of Taxes and Levies of the Russian Federation); - reference letters from the authorized banks of the Russian Federation in which the importer

	had current currency accounts confirming that there are no debts on currency revenue yield and its mandatory sale, compliance with currency legislation and sufficient funds in the importers' accounts to cover the advance payments; - the balance for the last accounting year and at the date of the importer's application to the Bank of Russia (this must be signed by the manager and the chief accountant of the importer, sealed with a round seal and attach the audit opinion confirming the balance to be true and accurate), certified by the Tax Inspectorate - a report of financial results for the last accounting year and at the date of the importer's application to the Bank of Russia, certified by the Tax Inspectorate; - a certificate from the state authority for statistics on assigning a code to the importer - copies of contracts between the importer and the supplier of goods as amended or supplemented (in Russian and in the original language); - copies of cargo customs declarations confirming the export of goods; - information from the authorized bank of the Russian Federation on funds actually remitted under the contract (with copies of payment documents attached); - notarized copies of sales permits for certain types of goods, licenses to engage in certain types of activity (as required by legislation). Territorial branches of the Bank of Russia would consider these documents and grant a permit or substantiated refusal within one month of their submission, and the Department of Currency Regulation and Currency Control of the Bank of Russia within two months. Refusal was mainly due to (i) non-compliance with currency, customs or in rectified tax legislation, (ii) violation of the terms of permits issued previously and (iii) non-compliance of the documentation, incomplete documentation, or non-compliance with the form of presentation of the documentation.
VI.	**Restrictions on operations with residents of members**
	Issue was of a bilateral nature. The Bank of Russia is currently considering possibilities of regulating this issue.

Table 2: Progress in Privatization of Enterprises of State and Municipal Ownership Within 1993-2001

Year	1993	1994	1995	1996	1997	1998	1999	2000	2001
No. of privatized enterprises of state and municipal ownership	42,924	21,905	10,152	4,997	2,743	2,129	1,536	2,274	2,287
Including those by the form of property									
Federal	7,063	5,685	1,875	928	374	264	104	170	125
Subjects of the Russian Federation	9,521	5,112	1,317	715	548	321	298	274	231
Municipal	26,340	11,108	6,960	3,354	1,821	1,544	1134	1830	1,931

Table 3: Progress in Privatization of Enterprises of State and Municipal Ownership Concerning Specific Areas of Activity Within 1993-2001

Area of activity	1993-2001
Industry	21,915
- electric energy	194
Agricultural Sector	1,842
Transport	3,242
- railway	57
- auto road	2,529
- pipeline	5
- maritime transport	44
- internal waterways	104
- air transport	67
- loading, unloading and expeditious services	93
Communications	206
Construction	8,182
Wholesale trade	1,653
Retail trade	25,505
Public catering	5,137
Housing and related services	3,037
Services to the population	1,940
Health care and other types of social care	356
Public education	278
Culture and art	331
Science	654
Other areas of economy	16,669
Total	90,947

Source: Annual Report On Development of State sector of Economy in the Russian Federation in 2001, Goskomstat.

Table 4: List of Goods and Services for Internal Consumption for Which Prices are Regulated by the Government of the Russian Federation and Federal Executive Bodies

HS code/ CPC	Description of goods and services	Regulating body	Principles of setting of the prices
271121	Natural gas (excluding as sold to the population)	The Federal Energy Commission	Setting of fixed prices of the limit level
271111 271129	Accompanying oil gas and stripped dry gas[8], casing-head gas (sold to gas processing plants for further processing), liquefied gas for household needs (excluding as sold to the population)	The Ministry of Economic Development and Trade of the Russian Federation on agreement with the Ministry of Energy and the Ministry of Finance of the Russian Federation	
2844	Nuclear fuel cycle products	The Ministry of Nuclear Power of the Russian Federation	
271600	Electric power and heat power	The Federal Energy Commission	Fixed tariffs or their limit levels
9301 9307 871000	Products for defence purposes	The Ministry of Economic Development and Trade of the Russian Federation	Setting of fixed or approximate prices
7101- 7103	Raw diamonds and precious stones	The Ministry of Finance of the Russian Federation on agreement with the Ministry of Economic Development and Trade of the Russian Federation	Setting of the fixed price
9021	Prosthetic and orthopaedic appliances	The Ministry of Economic Development and Trade of the Russian Federation on submission of the Ministry of Labour and Social Development and the Ministry of Finance of the Russian Federation	Setting of the profitability limit level
2208	Vodka, liquor products and other alcohol products stronger than 28 proof, produced in the territory of the Russian Federation or imported into the customs territory of the Russian Federation.	The Ministry of Economic Development and Trade of the Russian Federation on submission of the Ministry of Agriculture of the Russian Federation	Setting of the minimum price
2208	Ethyl alcohol from raw eatables produced on the territory of the Russian Federation	The Ministry of Economic Development and Trade on submission of the ministry of Agriculture of the Russian Federation	Setting of the minimum price
7131	Transportation of crude oil and oil derivatives by trunk pipelines	The Federal Energy Commission	Setting of the maximum limit level
7112 741	Transportation of cargoes, railway loading and unloading operations	The Ministry for Anti-Monopoly Policy and Support of Entrepreneurship of the Russian Federation.	Setting of tariffs and fees for loading and unloading services

[8] Excluding gas sold by the gas producer organizations not being affiliated to the Russian Joint-Stock Company Gazprom, the joint-stock companies Yakutgazprom, Norilskgazprom and Rosneft-Sakhalinmorneftegaz and also the gas sold to the populace and housing construction cooperatives.

HS code/ CPC	Description of goods and services	Regulating body	Principles of setting of the prices
71111 7112	Transportation of passengers, baggage, cargoes and mail by railway transport (except suburban traffic)	The Ministry for Anti-Monopoly Policy and Support of Entrepreneurship of the Russian Federation.	Setting of tariffs and fees for loading and unloading services
741	Loading and unloading operations in ports, port duties	The Ministry for Anti-Monopoly Policy and Support of Entrepreneurship of the Russian Federation on submission of the Ministry of Transport of the Russian Federation	Setting of the coefficient limit of raising of tariffs or profitability limit level
745	Charges for passage through internal waterways by vessels flying foreign flags	The Ministry of Transport of the Russian Federation on agreement with The Ministry of Finance of the Russian Federation	Setting of the coefficient limit of raising of tariffs or profitability limit level
74610 74110 4190	Aircraft, passengers and cargoes services in airports	The Ministry for Anti-Monopoly Policy and Support of Entrepreneurship of the Russian Federation.	Setting of the coefficient limit of raising of tariffs or profitability limit level
74590	Ice-breaking fleet service	The Ministry of Economic Development and Trade of the Russian Federation on submission of the Ministry of Transport of the Russian Federation and on agreement with the Ministry of Finance of the Russian Federation	Setting of the coefficient limit of raising of tariffs or profitability limit level
74620	Aeronavigation services of aircraft on the routes and on airfields	The Ministry of Transport of the Russian Federation (the Federal Aviation Service)	Setting of the coefficient limit of raising of tariffs or profitability limit level
7511 752 7524	Certain postal and electronic communication services, communication services in respect of broadcasting of programmes of Russian state TV and radio organizations	The Ministry for Anti-Monopoly Policy and Support of Entrepreneurship of the Russian Federation.	Setting of a fixed tariff
75111 75112	Domestic postal items: letters, post cards, parcels (only for State Post office)	The Ministry for Anti-Monopoly Policy and Support of Entrepreneurship of the Russian Federation.	Setting of a fixed tariff
7522 75232	Domestic telegram (only for State Post office)	The Ministry for Anti-Monopoly Policy and Support of Entrepreneurship of the Russian Federation.	Setting of a fixed tariff
75212	Provision of a long-distance telephone link (connection) through an automatic or manually operated switchboard irrespective of a type device used by subscribers	The Ministry for Anti-Monopoly Policy and Support of Entrepreneurship of the Russian Federation.	Setting of a fixed tariff
7541	Provision of trunk telegraph and telephone communications channels to organizations funded by corresponding budgets	The Ministry for Anti-Monopoly Policy and Support of Entrepreneurship of the Russian Federation.	Setting of a fixed tariff

HS code/ CPC	Description of goods and services	Regulating body	Principles of setting of the prices
7524	Distribution and broadcasting of All-Russia television and radio programs	The Ministry for Anti-Monopoly Policy and Support of Entrepreneurship of the Russian Federation.	Setting of a fixed tariff
7521	Provision of access to the telephone network irrespective of the type of lines employed by subscribers (wire or wireless lines)	The Ministry for Anti-Monopoly Policy and Support of Entrepreneurship of the Russian Federation.	Setting of a fixed tariff
75211	Provision of a local telephone link (connection) to registered subscribers	The Ministry for Anti-Monopoly Policy and Support of Entrepreneurship of the Russian Federation.	Setting of a fixed tariff

Table 5: List of Goods and Services for Internal Consumption for Which Prices are Regulated by the Government of the Russian Federation and Sub-Federal Executive Bodies

HS code/ CPC	Description of goods and services	Regulating body	Principles of setting of the prices
271112	Natural gas distributed to the population and building cooperative societies	The Executive Bodies of the Subjects of the Russian Federation	Setting of fixed prices or their limit level
271111	Liquefied gas distributed to the population for household purposes (except gas to refuel motor vehicles)	The Executive Bodies of the Subjects of the Russian Federation	
271600	Electric power and heat power	Regional Power Commissions on agreement with the Federal Energy Commission	
2701 2704	Solid fuel, furnace fuel for household use and kerosene distributed to the population	The Executive Bodies of the Subjects of the Russian Federation	
3001- 3006	Mercantile markups on prices for medicines and goods of medical designation	The Executive Bodies of the Subjects of the Russian Federation	Setting of the amount of mercantile mark-ups
931 933	Social services supplied to the population of the Russian Federation	The Executive Bodies of the Subjects of the Russian Federation	Setting of the amount limit of the mercantile mark-ups
931 933	Social services guaranteed by the State and supplied to elderly citizens and invalids of the Russian Federation	The Executive Bodies of the Subjects of the Russian Federation	
71211	Transportation of passengers and baggage by all types of public transport, including urban, subway and suburban transport (except railway transport)	The Executive Bodies of the Subjects of the Russian Federation	Setting of tariffs and fees for loading and unloading operations
9703	Funeral services	The Executive Bodies of the Subjects of the Russian Federation	Determining the amount of mercantile mark-ups
9401 18000	Water supply and sewage systems services	The Executive Bodies of the Subjects of the Russian Federation	
82101 82201	Payments for public utilities by the population	The Executive Bodies of the Subjects of the Russian Federation	

Table 6: List of Services for Internal Consumption for which the Sub-FederalExecutive Bodies have the right to introduce regional regulations over prices (tariffs) and markups

CPC	Description of goods and services	Regulating body	Principles of setting of the prices
622	Marketing and mercantile markups on prices for products and commodities distributed in the Far North areas or territories of equivalent status with limited cargo delivery periods	The Executive Bodies of the Subjects of the Russian Federation	Setting of the amount limit of the mercantile mark-ups
6310 642	Markups for products (commodities), distributed to public catering enterprises affiliated with secondary schools, vocational schools, secondary specialized and higher educational institutions	The Executive Bodies of the Subjects of the Russian Federation	
6222	Mercantile markups for baby food (including food concentrates)	The Executive Bodies of the Subjects of the Russian Federation	Setting of the profitability limit level
71112	Transportation of passengers and baggage by suburban railway transport (upon agreement with the Ministry of Railways of the Russian Federation), and provided that the losses resulting from tariff regulation are reimbursed from the respective budget of the subjects of the Russian Federation	The Executive Bodies of the Subjects of the Russian Federation on agreement with the Ministry of Railway Transport of the Russian Federation	Setting of the tariffs and fees for loading and unloading operations
71213 71221	Transportation of passengers and baggage by motor transport along intra-regional and inter-regional routes (inter-republican routes within the Russian Federation), including taxi	The Executive Bodies of the Subjects of the Russian Federation	
731 7221	Local transportation of passengers and baggage by local airlines and river transport	The Executive Bodies of the Subjects of the Russian Federation	
7211 7212 7221 7222 731 732	Transportation of cargoes, passengers and baggage by sea, river and air transport in the Far North areas and the territories of equivalent status	The Executive Bodies of the Subjects of the Russian Federation	Setting of tariffs and fees for loading and unloading operations

CPC	Description of goods and services	Regulating body	Principles of setting of the prices
7113 741	Services rendered on branch lines by enterprises of the industrial railway transport and other subjects	The Executive Bodies of the Subjects of the Russian Federation	Setting of the coefficient limit of raising of tariffs or limit level

Table 7: Licensing fees structure for manufacturing, storage, wholesale, exportation and importation of alcoholic beverages

Types of Activity	Licence fees (in minimum wages)	Equivalent in Rubles
Manufacturing and wholesale of alcoholic beverages	500	50,000
Exportation of alcoholic beverages	100 or 500[9]	10,000 or 50,000
Importation, storage and wholesale of alcoholic beverages	1,000 or 15,000	100,000 or 1,500,000

Table 8: 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

Table 9: 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	11.1

[9] 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 two 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.

Table 10: 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[10]
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[11], [12]	
- the same in specially designed warehouses	0.02 Euro/kg of gross weight for every 24 hrs 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)[13]
- 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	US$0.2-50 depending upon the amount the information provided and short notice
Payment for taking preliminary decision on classification of goods according to HS codes	five minimum wages (500 Rubles)

[10] The State Customs Committee may reduce customs charge for customs clearance to zero
[11] For the warehouses established by customs authorities only
[12] The customs authorities may reduce the charges for storage by half of the maximum
[13] The minimum wage is roughly US$3.2

Table 11: Stamp Tax related to imports and exports (updated)

Service rendered/type of Fees and Charges	Rates applied[14]
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	1.5 per cent of the value of the agreement but at least 50 per cent of the minimal wage
2. for the attestation of agency agreements	0.5 per cent of the amount of obligation undertaken but at least 30 per cent of the minimal wage
3. for the certification of other warrants	20 per cent of the minimum wage
4. for effecting a captain's protest	15-fold minimum wage
5. for testifying to the correctness of a document's translation from one language into another	10 per cent 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 per cent 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 per cent 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 per cent 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

[14] The minimum wage is roughly US$3.2

Table 12: Consular Fees

Documents and acts, for which consular fees are collected	Rates applied (US$)			
	CIS countries and Baltic countries		Other countries	
Fees for certification and notarization of documents				
For certification of each document	3		30	
Power of attorney notarization				
For power of attorney authorizing the use and command of property, including motor vehicles, as well as carrying out the lending operations:	6		60	
For confirming other powers claimed by an individual	2		20	
For notarization of:				
Agreements subject to evaluation:	5% of the amount specified in the agreement, but no less than US$1.		5 % of the amount specified in the agreement, but no less than US$10.	
For authentication of signature:	1		10	
For authentication of copies of instruments and extracts from instruments	1.5		15	
For authentication of photostats:			6	
For issuing the extracts from, or copies of, instruments kept in the files of consular offices (for one page)	1.5		15	
	If less than one page of text of an extract from, or a copy of, instrument is issued, the collected fee shall correspond to the same for a full page.		Minimum fee for this act: 30	
For making an executive inscription	2% of the collected amount, but no less than US$0.5.		2% of the collected amount, but no less than US$5.	
	For processing the documents certifying the fact of purchasing the motor vehicles or motorcycles	1% of value of the given transport facility assessed by mercantile business, but no less than US$10.	Translation with simultaneous notarization of its correctness for each page:	
			For translations from foreign languages into Russian	20
			For translations from Russian into foreign languages	35

Documents and acts, for which consular fees are collected	Rates applied (US$)			
	CIS countries and Baltic countries		Other countries	
			For certification of correctness of a translation made without participation of consular office for each page	15
			For typing the documents	5
Consulage for consular service of sea- and air-craft				
	Executing the protest by master	5	Executing the protest by master	50
	Issuing the certificate of loading or unloading operations with a vessel flying a foreign flag, as well as certifying other shipping documents	10	Issuing the certificate of loading or unloading operations with a vessel flying a foreign flag, as well as certifying other shipping documents	100
	Issuing the temporary certificate confirming the right to fly a flag of the Russian Federation or ownership of vessel	15	Issuing the temporary certificate confirming the right to fly a flag of the Russian Federation or ownership of vessel	150
	Prolongation of the term of validity of vessel documents and processing the logbooks	3	Prolongation of the term of validity of vessel documents and processing the logbooks	30
	Notarization of various certificates and applications; issuing the cargo certificate; adding crew Members to a crew list, or removing them from it	3	Notarization of various certificates and applications; issuing the cargo certificate; adding crew Members to a crew list, or removing them from it	30
	Gluing the additional sheets in crew list or logbook	2	Gluing the additional sheets in crew list or logbook	20
	Notarization of sanitary certificate	3	Notarization of sanitary certificate	30
	Executing a protocol of salvaging the wrecked or stolen vessel	2.5	Executing a protocol of salvaging the wrecked or stolen vessel	25

Table 13(a): Port Fees used in Commercial Seaports of the Russian Federation Group Classification of Vessels

Group of vessels	Vessels and floating facilities
A	Foreign-going cargo vessels and facilities, including non-self propelled ones.
B	Coastal-traffic cargo vessels and facilities, including non-self propelled ones.
C	Foreign-going inter-port ferries. Foreign-going passenger ships.
D	Coastal-traffic inter-port ferries. Coastal-traffic passenger ships. Ice breakers not operated day-to-day or rented by port sea administration (or seaport administration).
E	Lighters on board the lighter-aboard ship; warships; hospital ships; sports vessels; private yachts; technical vessels used for deepening works in ports; vessels of local port fleet, shipyards or ASPTR/LRN; ice breakers operated day-to-day by port sea administration (or seaport administration) and not rented by them.
F	Transit vessels; vessels touching at a port forcedly, for damage repairs, quarantine needs or custom house and frontier formalities, as well as the vessels undergoing performance trial.
G	Service vessels; research ships; surveying vessels.
H	Fishing and other vessels of a fish industry department.

Table 13(b): Port Fees used in Commercial Seaports of the Russian Federation

Port	US$	Port	US$
1. Tonnage Shall be collected for 1 cubic meter of vessel conventional capacity, separately for each fetching into the port and sailing from it.			
Black Sea – Sea of Azov basin			
Novorossiysk	0.270	Taganrog	0.140
Sochi	0.285	Tuapse	0.250
		Other ports	0.184
Baltic basin			
Vyborg	0.200	Kaliningrad	0.170
Vysotsk	0.220	Other ports	0.210
Saint Petersburg	0.240		
North basin			
Arkhangelsk	0.230	Naryan-Mar	0.240
Amderma	0.218	Onega	0.216
Kandalaksha	0.216	Tiksi	0.216
Mezen	0.216	Khatanga	0.216
Murmansk	0.230	Other ports	0.216
Arctic and Far East basin			
Anadyr	0.175	Pevek	0.175
Aleksandrovsk-in-Sakhalin	0.279	Provideniya	0.210
Beringovskiy	0.175	Petropavlovsk-Kamchatsky	0.175
Boshnyakovo	0.234	Poronaysk	0.248
Vladivistok	0.223	Posyet	0.205
Vostochny	0.223	Uglegorsk	0.234
Vanino	0.210	Ust-Kamchatsk	0.175
Korsakov	0.220	Kholmsk	0.223
Krasnogorsk	0.225	Shakhtyorsk	0.234
Magadan	0.175	Egvekinot	0.265
Nakhodka	0.223	Other ports	0.175
Nakhodka (oil harbor)	0.223		
Nikolaevsk-on-Amur	0.225		
Caspian basin			
Makhachkala	0.150	Other ports	0.112
Astrakhan (Olya)	0.120		
2. Beaconage Shall be collected for 1 cubic meter of vessel conventional capacity upon each fetching into the port and its transit passing. Exempted from the light dues are vessels calling for refuge to perform an emergency repair and the vessels of group "D". Vessels of groups "E" and "G" are exempted from the beaconage dues unless they perform cargo handling and operations of commercial nature at the port.			
Black Sea – Sea of Azov basin			
Novorossiysk	0.025	Taganrog	0.025
Sochi	0.025	Tuapse	0.025
		Other ports	0.025
Baltic basin			
Vyborg	0.025	Kaliningrad	0.025
Vysotsk	0.025	Other ports	0.025
Saint Petersburg	0.025		
North basin			
Arkhangelsk	0.025	Naryan-Mar	0.025

Port	US$	Port	US$
Amderma	0.025	Onega	0.025
Kandalaksha	0.025	Tiksi	0.025
Mezen	0.025	Khatanga	0.025
Murmansk	0.025	Other ports	0.025
Arctic and Far East basins			
Anadyr	0.025	Pevek	0.025
Aleksandrovsk-in-Sakhalin	0.025	Provideniya	0.025
Beringovskiy	0.025	Petro-pavlovsk-Kamchatskiy	0.025
Boshnyakovo	0.025	Poronaysk	0.025
Vladivostok	0.025	Posyet	0.025
Vostochny	0.025	Uglegorsk	0.025
Vanino	0.025	Ust-Kamchatsk	0.025
Korsakov	0.025	Kholmsk	0.025
Krasnogorsk	0.025	Shakhtyorsk	0.025
Magadan	0.025	Egvekinot	0.025
Nakhodka	0.025	Other ports	0.025
Nakhodka (oil harbor)	0.025		
Nikolaevsk-on-Amur	0.025		
Caspian basin			
Makhachkala	0.025	Other ports	0.025
Astrakhan	0.025		
3. Canal dues Shall be collected for 1 cubic meter of vessel conventional capacity upon each pass of canal in one direction.			
Black Sea – Sea of Azov basin			
Taganrog	0.072	Tuapse	0.009
Sea of Azov – Don River Canal	0.216		
Baltic basin			
Kaliningrad	0.075	Saint Petersburg	0.070
Vyborg	0.045		
Vysotsk	0.025		
North basin			
Arkhangelsk	0.196	Naryan-Mar	0.299
Mezen	0.159	Onega	0.299
Far East basin			
Vostochny	0.011	Nikolaevsk-on-Amur	0.050
Kholmsk	0.011		
Caspian basin			
Volga River – Caspian Sea Canal		Makhachkala	0.016
Astrakhan	0.790		
Astrakhan (Olya)	0.480		

Port	Group A, B or H vessels		Group C, D, E, F or G vessels
	for vessel being alongside, with load handling operations carried out US$	for all other cases US$	US$
4. Wharfage Shall be collected for 1 cubic meter of vessel conventional capacity for each day of vessel being alongside. The wharfage dues are collected from vessels staying alongside the berth. For the vessels of groups "A", "B" and "H" wharfage dues are charged per 1 m^3 of the conventional volume of the vessel for each day of the vessel' s stay alongside the berth. The time of stay at a berth is rounded off upward to one-half of the day. For the vessels of groups "C", "D", "E", "F" and "G" berth dues are charged per $1m^3$ of the conventional volume for each call.			
Black Sea – Sea of Azov basin			
Novorossiysk			
- for bulk-carriers	0.0022	0.0007	0.0044
- for tankers	0.0045	0.0015	
Sochi	0.0220	0.0070	0.0044
Taganrog	0.0063	0.0021	0.0044
Tuapse			
- for bulk-carriers	0.0021	0.0007	0.0044
- for tankers	0.0042	0.0014	
Other ports	0.0040	0.0014	0.0044
Baltic basin			
Vyborg	0.0051	0.0017	0.0040
Vysotsk	0.0056	0.0019	0.0040
Kaliningrad	0.0070	0.0023	0.0040
Saint Petersburg	0.0031	0.0010	0.0040
Other ports	0.0040	0.0013	0.0040
North basin			
Arkhangelsk	0.0062	0.0021	0.0050
Kandalaksha	0.0180	0.0060	0.0050
Murmansk	0.0049	0.0016	0.0050
Naryan-Mar	0.0156	0.0052	0.0050
Tiksi	0.0072	0.0024	0.0050
Other ports	0.0100	0.0033	0.0050
Arctic and Far East basins			
Anadyr	0.0079	0.0027	0.0070
Vanino	0.0046	0.0015	0.0060
Vladivostok	0.0054	0.0018	0.0060
Vostochny	0.0130	0.0043	0.0060
Korsakov	0.0190	0.0063	0.0060
Magadan	0.0056	0.0018	0.0070
Nakhodka	0.0049	0.0016	0.0060
Nakhodka (oil harbor)	0.0148	0.0049	0.0060
Nikolaevsk-on-Amur	0.0184	0.0061	0.0060
Pevek	0.0113	0.0038	0.0070
Petropavlovsk-Kamchatskiy	0.0121	0.0040	0.0070
Posyet	0.0113	0.0038	0.0060
Provideniya	0.0068	0.0024	0.0070
Kholmsk	0.0190	0.0063	0.0070

Port	Group A, B or H vessels		Group C, D, E, F or G vessels
	for vessel being alongside, with load handling operations carried out US$	for all other cases US$	US$
Egvekinot	0.0103	0.0034	0.0070
Other ports	0.0097	0.0032	0.0060
Caspian basin			
Astrakhan	0.0220	0.0070	0.0044
Makhachkala	0.0156	0.0052	0.0050
Other ports	0.0146	0.0048	0.0044
5. Anchor dues Shall be collected for 1 cubic meter of vessel conventional capacity for each hour of anchorage in the outer or inner harbor in excess of 12 hours. Incomplete hour of anchorage shall be considered as a complete hour of anchorage.			
Black Sea – Sea of Azov basin			
Novorossiysk	0.0001	Taganrog	0.0001
Sochi	0.0001	Tuapse	0.0001
		Other ports	0.0001
Baltic basin			
Vyborg	0.0001	Kaliningrad	0.0001
Vysotsk	0.0001	Other ports	0.0001
Saint Petersburg	0.0001		
North basin			
Arkhangelsk	0.0001	Naryan-Mar	0.0001
Amderma	0.0001	Onega	0.0001
Kandalaksha	0.0001	Tiksi	0.0001
Mezen	0.0001	Khatanga	0.0001
Murmansk	0.0001	Other ports	0.0001
Arctic and Far East basins			
Anadyr	0.0001	Pevek	0.0001
Aleksandrovsk-in-Sakhalin	0.0001	Provideniya	0.0001
Beringovskiy	0.0001	Petropavlovsk-Kamchatskiy	0.0001
Boshnyakovo	0.0001	Poronaysk	0.0001
Vladivostok	0.0001	Posyet	0.0001
Vostochny	0.0001	Uglegorsk	0.0001
Vanino	0.0001	Ust-Kamchatsk	0.0001
Krasnogorsk	0.0001	Kholmsk	0.0001
Magadan	0.0001	Shakhtyorsk	0.0001
Nakhodka	0.0001	Egvekinot	0.0001
Nakhodka (oil harbor)	0.0001	Other ports	0.0001
Nikolaevsk-on-Amur	0.0001		
Caspian basin			
Makhachkala	0.0001	Other ports	0.0001
Astrakhan	0.0001		

Table 14: Excise taxes

Types of excisable goods	Tax rate
1. Ethyl alcohol made of all types of raw materials	16 Rubles 90 Kopeks per 1 litre of absolute ethyl
2. Alcohol products of volume fraction of ethyl alcohol over 25 per cent (except for wines) and alcohol containing products	114 Rubles per 1 litre of absolute ethyl alcohol contained in excisable goods
3. Alcohol products of volume fraction of ethyl alcohol from 9 to 25 per cent inclusive (except for wines)	84 Rubles per 1 litre of absolute ethyl alcohol contained in excisable goods
4. Alcohol products of volume fraction of ethyl alcohol up to 9 per cent inclusive (except for wines)	58 Rubles 60 Kopeks per 1 litre of absolute ethyl alcohol contained in excisable goods
5. Fortified wines (except for natural wines)	75 Rubles per 1 litre of absolute ethyl alcohol contained in excisable goods
6. Champagne and sparkling wines	10 Rubles 50 Kopeks per 1 litre
7. Natural wines (except for champagne and sparkling wines)	4 Rubles per 1 litre
8. Beer with normative (standard) volume of fraction of ethyl alcohol up 0,5 per cent inclusive	0 Ruble per 1 litre
9. Beer with normative (standardized) volume of fraction of ethyl alcohol over 0,5 per cent up to 8.6 per cent inclusive	1 Ruble 40 Kopeks per 1 litre
10. Beer with normative (standardized) volume of fraction of ethyl alcohol over 8.6 per cent	4 Rubles 60 Kopeks per 1 litre
11. Pipe tobacco	522 Rubles per 1 kg
12. Smoking tobacco, except for tobacco utilized as raw material to produce tobacco articles	214 Rubles per 1 kg
13. Cigars	13 Rubles per 1 piece
14. Cigarillos, cigarettes with filter longer than 85 mm	143 Rubles per 1,000 pieces
15. Cigarettes with filter	50 Rubles per 1,000 pieces plus 5%
16. Non-filter cigarettes, mouthpiece cigarettes	19 Rubles per 1,000 pieces plus 5%
17. Petroleum and stable gas condensate	73 Rubles 92 Kopeks per 1 ton
18. Cars with engine power up to 67.5 Kw (90 hp) inclusive	0 Rubles per 0.75 kWh (1 hp)
19. Cars with engine power up over 67.5 Kw (90 hp) and up to 112.5 Kw (150 hp) inclusive	13 Rubles per 0.75 Kwt (1 hp)
20. Cars with engine power over 112.5 Kw (150 hp), motorcycles with engine power over 112.5 Kw (150 hp)	129 Rubles per 0.75 Kwt (1 hp)
21. Motor gasoline with octane value up to "80" inclusive	2190 Rubles per 1 ton
22. Motor gasoline with other octane values	3000 Rubles per 1 ton
23. Diesel fuel	890 Rubles per 1 ton
24. Oil for diesel and (or) carburettor (injector) engines	2440 Rubles per 1 ton
25. Natural gas sold on the territory of the Russian Federation	15 per cent
26. Natural gas sold to member states of the Commonwealth of Independent States	15 per cent
27. Natural gas sold from the territory of the Russian Federation (except for the CIS member states)	30 per cent

Table 15(a): List of goods exempt from VAT on the territory of the Russian Federation

1.	major, vital medical equipment
2.	prosthetic and orthopedic items, raw materials and articles for their manufacture and semi-finished products for such items
3.	facilities, including motor vehicles, materials which may be used exclusively for disability prevention or the rehabilitation of the disabled
4.	spectacles (except sunglasses), lenses and spectacle frames (except sunglasses frames)
5.	foodstuffs directly produced by student and school canteens, other educational establishments' canteens, medical organisations' and pre-school establishments' canteens, and sold in such establishments, and foodstuffs directly produced by public catering organisations and sold to such canteens or the establishments described
6.	postage stamps (except collectable stamps), stamped postcards and envelopes, lottery tickets for lotteries held upon the decision of the authorised body
7.	coins made of precious metals (except collectable coins) constituting the currency of the Russian Federation or of foreign states
8.	goods placed under the customs regime of duty-free shops
9.	goods (works, services), except excisable goods and excisable minerals, sold (performed, rendered) as part of the granting of free aid (assistance) by the Russian Federation under the Federal Law "On Free Aid (Assistance) of the Russian Federation and the Introduction of Amendments and Addenda to Certain Legislative Acts of the Russian Federation on Taxes and on Provision of Preferential Payment Terms in Respect of Payments to State Non-Budgetary Funds in Connection with Free Aid (Assistance) of the Russian Federation"
10.	the sale of entrance tickets and subscriptions for theatrical and spectator, cultural and entertainment events, amusements in zoos and culture and relaxation parks, excursion tickets and passes, the form of which has been approved in the established procedure as blank forms for which strict records are kept
11.	the sale of programs at performances and concerts, catalogues and booklets
12.	the sale (transfer for personal need) of religious articles and religious literature (in accordance with the list approved by the Government of the Russian Federation as advised by religious organisations (associations), produced and sold by religious organisations (associations), organisations owned by religious organisations (associations), and companies whose charter (reserve) capital consists entirely of contributions from religious organisations (associations), as part of religious activities, except excisable goods and minerals, and the organization and holding by such organisations of religious rites, ceremonies, prayer meetings or other cult activities
13.	the sale (including the transfer, performance, rendering for personal needs) of goods (except excisable goods, minerals and mineral deposits, and other goods under the list to be approved by the Government of the Russian Federation as advised by Russian public organisations of disabled persons), works, services (except brokers' and other intermediary services) produced and sold: by public organisations of disabled persons (including those created as unions of public organisations of disabled persons), no less than 80 percent of Members of which are the disabled and their lawful representatives; organisations whose charter capital consists entirely of contributions by the public organisations of disabled persons described in the second paragraph of this sub-paragraph, if the number of disabled persons on the payroll constitutes no less than 50 percent, and their share in the salary fund no less than 25 percent; institutions, the sole owners of the property of which are the public organisations of disabled persons described in the second paragraph of this sub-paragraph, created for educational, cultural, therapeutic, physical exercise and sport, scientific, informational and other social purposes, and to render legal and other assistance to the disabled, disabled children and their parents; health treatment (industrial) workshops in antituberculous, psychiatric, psycho-neurological institutions, public social protection or social rehabilitation establishments
14.	the sale of articles of folk craft of recognized artistic value (except excisable goods), samples of which have been registered in the procedure established by the Government of the Russian Federation

15.	the sale of ore, concentrates and other industrial products containing precious metals, scrap and waste from precious metals for the manufacture of precious metals and refining; the sale of precious metals and gems by taxpayers (except those described in Article 164:1:6 of the present Code) to the State Fund of Precious Metals and Gems of the Russian Federation, of gems for raw materials (except uncut diamonds) for treatment to enterprises, regardless of their forms of ownership, for subsequent sale for export; the sale of gems for raw materials and cut [gems] to specialised foreign economic organisations, the State Fund of Precious Metals and Gems, the Central Bank of the Russian Federation and banks; the sale of precious metals from the State Fund of Precious Metals and Gems of the Russian Federation to specialised foreign economic organisations, the Central Bank of the Russian Federation and banks, and of precious metals in ingots by the Central Bank of the Russian Federation and banks, provided that such ingots remain in one of the certified vaults (the State Vault of Valuables, the Vault of the Central Bank of the Russian Federation or bank vaults)
16.	the sale of uncut diamonds to refining enterprises of all forms of ownership
17.	the internal sale (transfer, performance, rendering for internal needs) by penitentiary system organisations and institutions of goods produced by such organisations and institutions (works performed, services rendered)
18.	the charitable transfer of goods (performance of works,rendering of services), free of charge under the Federal Law "On Charitable Activity and Charity Organisations', except excisable goods
19.	the sale of entrance tickets, the form of which has been approved as blank forms for which strict records are kept, by physical exercise and sport organisations for sport and spectator events held by such organisations; the rendering of services for the leasing of sports facilities for holding such events
20.	the sale of home-grown produce of organisations engaged in producing agricultural products, the share of income from the sale of which in the total amount of revenue constitutes no less than 70 percent, as in-kind compensation, in-kind issuances for remuneration of labor, and for catering for employees engaged in the agricultural work

Table 15(b): List of goods taxed on the territory of the Russian Federation at the VAT rate of 10 percent

1	Foodstuffs: – livestock and poultry on a live weight basis; – meat and meat products (except gourmet products: tenderloin, veal, tongue, sausage goods – high quality smoked, high-quality smoked semi-dry, freshly seasoned, high-quality stuffed; smoked pork, lamb, beef and veal products, poultry meat - balyk, carbonade, neck, gammon, pastroma, sirloin; baked pork and beef; preserved foods - ham, bacon, carbonade and jellied tongue); – milk and dairy products (including dairy ice cream, except ice cream made from fruits and berries, fruit and edible ice); – eggs and egg products; – vegetable oil; – margarine; – sugar, including raw sugar; – salt; – grain, compound feed, feed mix, grain waste; – oilseeds and products of their processing (coarsely cut, oil cake); – bread and bakery products (including rich, rusk and roll articles); – cereal; – flour; – pasta; – live fish (except valuable species: white salmon, Baltic Sea and Far East salmon, sturgeon (beluga, bester, sturgeon, starred sturgeon, sterlet), salmon, trout (except sea trout), nelma, dog salmon, king salmon, coho salmon, muksun, omul, Siberian and Amur whitefish, chira); – seafood and fish products, including refrigerated, frozen fish and other types of processed fish, herring, conserves and preserves (except gourmet types: caviar from sturgeon and salmon; white salmon, Baltic Sea salmon, sturgeon – beluga, bester, sturgeon, starred sturgeon, sterlet; salmon; nelma cold-smoked backs and flanks; dog salmon, king salmon lightly-salted, medium-salted and semuzh-pickled; backs of cold-smoked dog-salmon, king salmon and coho salmon, flanks of dog-salmon and flanks of cold-smoked king salmon; backs of cold-smoked muksun, omul, Siberian and Amur whitefish, chira; pickled canned fillet slices of Baltic Sea and Far East salmon; crabmeat and sets of cooked and frozen individual crab sticks; lobster); – baby and diabetic foodstuffs; – vegetables (including potatoes)

2	Children's goods: – knitwear articles for newborn babies and children of nursery, pre-school, junior and senior school age groups: outer knitwear articles, clothing knitwear articles, legwear garments, other knitwear articles: gloves, mittens, hats; – garments, including articles made from sheepskin and rabbit (including articles made from sheepskin and rabbit with leather pieces) for newborn babies and children of nursery, pre-school, junior and senior school age groups, outer garments (including dresses and suits), underwear, headwear, clothing and articles for newborn babies and children of a nursery age. The provisions of this paragraph do not apply to garments made of natural leather and fur, except from sheepskin and rabbit; – footwear (except sport footwear): bootees, pre-school, school; felt; rubber: for nursery children, children's, school; – children's beds; – children's mattresses; – prams; – school exercise books; – games; – plasticine; – pencil cases; – counting sticks; – school abacuses; – school diaries; – drawing books; – sketchbooks; – folders for exercise books; – covers for textbooks, diaries, exercise books; – cards containing figures and letters; – diapers
3	Periodical printed publications, except periodical printed publications of an advertising or erotic nature
4	Books connected to education, science and culture, except books of an advertising or erotic nature
5	Medical goods of domestic and foreign origin: medicines, including drug substances, including of internal pharmacy production; articles for medical use.

Table 16(a): List of goods subject to non-automatic import licensing

Product group	HS Code	Reason for licensing	GATT/WTO Reference
Nuclear substances and articles made thereof	2844 40, including as parts of devices and equipment by subgroups 9022 12 000 0, 9022 13 000 0, 9022 14 000 0, 9022 19 000 0, 9022 21 000 0, 9022 29 000 0	Exemptions for national security considerations	Art. XXI (b) (I)
Explosive substances, pyrotechnics	2904 20 100 0 3601 00 000 0, 3602 00 000 0 3603 00 3604	General exemptions	Article XX (b)(ii)
Precious stones	List	National interests	
Drugs, substances with psychotropic effects; virulent substances and toxic substances	Nomenclature and quota	General exemptions International commitments	Article XX (b)
Information protection devices (including encryption devices, components for encryption devices and encryption software packages), regulatory documentation and specifications (including developer and user documentation)	8471, 8543 89 950 0 8473 30 8543 90 800 0	Exemptions for national security considerations	Article XXI (b) (ii)
Medicines and pharmaceutical products used for medical treatment	2904-2909, 2912-2942 00 000 0, 3001, 3002, 3003, 3004, 3006 30 000 0, 3006 60	General exemptions	Art. XX (b)
Medicines used for veterinary purposes	List	General exemptions	Art. XX (b)
Ozone destroying substances and products containing such substances	List	General exemptions International commitments	Art. XX (b)
Hazardous wastes (Basel Convention)	Lists	General exemptions International commitments	Art. XX (b)
Plant protection chemicals	3808 (only plant protection substances)	General exemptions	Art. XX (b)
Ethyl alcohol	2207 10 000 0, 2207 20 000 0, 2208 90 910 0, 2208 90 990 0	General exemptions National interests	Art. XX (b)
Vodka	2208 60	General exemptions	Art. XX (b)

Product group	HS Code	Reason for licensing	GATT/WTO Reference
Strong liquors (over 28 proof)	2208 90 110 0, 2208 90 190 0, 2208 90 330 0, 2208 90 380 0, 2208 90 410 0, 2208 90 450 0, 2208 90 480 0, 2208 90 520 0, 2208 90 570 0, 2208 90 690 0, 2208 90 710 0, 2208 90 740 0, 2208 90 780 0	General exemptions	Article XX(b)
Sturgeon species of fish and products made there of including caviar	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	General exemptions International commitments	Art. XX (b)
Special devices for unauthorised obtaining of information, subject to export and import licensing	List	General exemptions	Article XX(a)
Nuclear materials, equipment, special non-nuclear materials and technologies subject to export control	List 06 Presidential Decree No. 202 as amended and supplemented from time to time, including Presidential Decree No. 412 of 11 April 2001	International commitments Exemptions for national security considerations	Article XXI(b)(i)
Products of military designation	9301-9307, 8710	Exemptions for national security considerations	Article XXI(b)(ii)

Table 16(b): List of Goods subject to automatic import licensing

Product group	HS Code	Reason for licensing	GATT/WTO reference
Carpets and textile flooring originating from EC	5702 (except 5702 20 000 0, 5702 39 900 0, 5702 49 900 0), 5703, 5704, 5705 00	Monitoring of trade flows	WTO Agreement on Import Licensing Procedures, articles 1 and 2
Raw sugar	1701 11		
Starch treacle	1702 30 990 1		

Table 17(a): Goods subject to non-automatic export licensing

Product group	HS Code	Reason for licensing	GATT Reference
Nuclear substances and products made thereof	2844 40 9022 12 000 0 9022 13 000 0 9022 14 000 0 9022 19 000 0 9022 21 000 0 9022 29 000 0	Exemptions for national security considerations	Article XXI (b) (ii)
Explosive substances, pyrotechnics	2904 20 100 0 3601 00 000 0 3602 00 000 0 3603 00 3604	General exemptions	Article XX (b)
Precious metals and gems	List	Protection of national values	Article XV:9(b)
Drugs, substances with psychotropic effects; virulent substances and toxic substances	Nomenclature and quota	International commitments	Article XX (b)
Information protection devices (including encryption devices, components for encryption devices and encryption software packages)	8471, 8543 89 950 0 8473 30 8543 90 800 0	Exemptions for national security considerations	Article XXI (a)
Ozone destroying substances and products containing such substances	List	International commitments	Art. XX (b)
Hazardous wastes (Basel Convention)	Lists	International commitments	Art. XX (b)
Wildlife, ivory, horns, hooves, corals and similar products	List	General exemptions International commitments, protection of national values	Art. XX (b)
Pharmaceutical raw materials of animal and vegetable origin	0206 10 100 0, 0206 22 000 1, 0206 29 100 0, 0206 30 200 1, 0206 30 300 1, 0206 30 800 1, 0206 41 200 1, 0206 41 800 1, 0206 49 200 1, 0206 49 800 1, 0206 80 100 0, 0206 90 100 0, 0507, 0510 00 000 0, 1211, 1212 20 000 0, 1302 (except 1302 19 300 0), 3001, 3002	General exemptions	Art. XX (b)

Product group	HS Code	Reason for licensing	GATT Reference
Fish, crustaceans, shell-fish and other invertebrates, spawn, milt (roe) of sturgeon, salmon and ordinary fish species (live only)	0301, 0306, 0307, 0511 91 901 1, 0511 91 901 9, 0511 91 902 0	General exemptions	Article XX (b)
Collectible materials in mineralogy and paleontology, semiprecious stones and products thereof	9705 00 000 0, 7103 10 000 0, 7103 99 000 0, 7105 10 000 0, 7105 90 000 0, 7116 20 110 0, 7116 20 190 0	General exemptions Protection of national values	Article XX (f)
Subsoil information by region and by deposit of fuel and energy sources and minerals located within the territory of the Russian Federation and within the continental shelf and marine economic zone of the Russian Federation		Protection of national values	
Refined gold and silver	List	General exemptions	Article XX(c)
Sturgeon species of fish and products thereof including caviar		International commitments	Art. XX (b)
Non-ferrous metals ores containing precious metals	2603 00 000 0, 2604 00 000 0, 2607 00 000 0, 2608 00 000 0, 2609 00 000 0, 2617, 2620 19 000 0, 2620 20 000 0, 2620 30 000 0, 2620 90 100 0, 2620 90 300 0, 2620 90 400 0, 2620 90 500 0, 2620 90 700 0, 2620 90 800 0, 2620 90 990 0, 2621 00 000 0, 7401, 7402 00 000 0, 7501, 7801 99 100 0	Protection of national values	
Special devices for unauthorised obtaining of information, subject to export and import licensing	List	Exemptions for national security considerations	Article XXI(b)(ii)
Chemicals, equipment and technologies which may be used for production of chemical weapons and are subject to export control	List 01 Presidential Decree No. 1082 of 28 November 2001 No. 621-RP of 7 December 1994	Exemptions for national security considerations	Article XXI (b) (ii)

Product group	HS Code	Reason for licensing	GATT Reference
Human, animal and plant pathogens, genetically modified microorganisms, toxins, equipment and technologies, subject to export control	List 02 Presidential Decree No. 1004 of 8 August 2001 No. 298-RP of 14 June 1994	General exemptions	Article XX(b)
Equipment and materials of dual purposes and technologies used in nuclear industry subject to export control	List 03 Presidential Decree No. 228 of 21 February 1996	Exemptions for national security considerations	Article XXI(b)(i)
Equipment, materials and technologies which may be used in creation of rocket weapons	List 04 Presidential Decrees No. 1005 of 8 August 2001, No. 1194 of 16 August 1996	Exemptions for national security considerations	Article XXI(b)(ii)
Goods and technologies of dual purpose subject to export control	List 05 Presidential Decrees No. 1268 of August 26, 1996	Exemptions for national security considerations	Article XXI(b)(i)
Nuclear materials, equipment, special non-nuclear materials and technologies subject to export control	List 06 Presidential Decree No. 202 as amended and supplemented from time to time, including Presidential Decree No. 412 of 11 April 2001	Exemptions for national security considerations International commitments	Article XXI(b)(i)
Goods and technologies of dual purpose and other devices controlled under resolutions of the UN Security Council for exports to Iraq and subject to notification or ban	List 24 Presidential Decrees No. 972 of 2 September 1997	International commitments	Article XXI(b)
Products of military designation	9301-9307, 8710	Exemptions for national security considerations	Article XXI(b)(ii)

Table 17(b): Goods subject to automatic export licensing

Product group	HS Code	Reason for licensing	GATT reference
Cattle hides Sheep hides Other unprocessed hides and skins	4101, 4102, 4103	Monitoring of trade flows	
Timber of valuable types of wood	List	Monitoring of trade flows	

ANNEX I

List of Laws and Regulations Available to the Working Party

Note: Work on finalisation of the list of laws and their availability in the Secretariat is underway. A provisional list of legislation will be circulated shortly, as an Addendum to this document.

Draft Decision

ACCESSION OF THE RUSSIAN FEDERATION

Decision of […]

The Ministerial Conference,

Having regard to paragraph 2 of Article XII and paragraph 1 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization (the "WTO Agreement"), and the Decision-Making Procedures under Articles IX and XII of the Marrakesh Agreement Establishing the World Trade Organization agreed by the General Council (WT/L/93),

Taking note of the application of the Russian Federation for accession to the Marrakesh Agreement Establishing the World Trade Organization dated 9 December 1994,

Noting the results of the negotiations directed toward the establishment of the terms of accession of the Russian Federation to the WTO Agreement and having prepared a Draft Protocol on the Accession of the Russian Federation,

Decides as follows:

The Russian Federation may accede to the WTO Agreement on the terms and conditions set out in the Draft Protocol annexed to this Decision.

DRAFT PROTOCOL
ON THE ACCESSION OF THE RUSSIAN FEDERATION

Preamble

The World Trade Organization (hereinafter referred to as the "WTO"), pursuant to the approval of the General Council of the WTO accorded under Article XII of the Marrakesh Agreement Establishing the World Trade Organization (hereinafter referred to as the "WTO Agreement"), and the Russian Federation,

Taking note of the Report of the Working Party on the Accession of the Russian Federation to the WTO Agreement reproduced in document WT/ACC/RUS …, dated … (hereinafter referred to as the "Working Party Report"),

Having regard to the results of the negotiations on the accession of the Russian Federation to the WTO Agreement,

Agree as follows:

PART I - GENERAL

1. Upon entry into force of this Protocol pursuant to paragraph 8, the Russian Federation accedes to the WTO Agreement pursuant to Article XII of that Agreement and thereby becomes a Member of the WTO.

2. The WTO Agreement to which the Russian Federation accedes shall be the WTO Agreement, including the Explanatory Notes to that Agreement, as rectified, amended or otherwise modified by such legal instruments as may have entered into force before the date of entry into force of this Protocol. This Protocol, which shall include the commitments referred to in paragraph … of the Working Party Report, shall be an integral part of the WTO Agreement.

3. Except as otherwise provided for in paragraph … of the Working Party Report, those obligations in the Multilateral Trade Agreements annexed to the WTO Agreement that are to be implemented over a period of time starting with the entry into force of that Agreement shall be implemented by the Russian Federation as if it had accepted that Agreement on the date of its entry into force.

4. The Russian Federation may maintain a measure inconsistent with paragraph 1 of Article II of the GATS provided that such a measure was recorded in the list of Article II Exemptions annexed to this Protocol and meets the conditions of the Annex to the GATS on Article II Exemptions.

PART II - SCHEDULES

5. The Schedules reproduced in Annex I to this Protocol shall become the Schedule of Concessions and Commitments annexed to the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the "GATT 1994") and the Schedule of Specific Commitments annexed to the General Agreement on Trade in Services (hereinafter referred to as "GATS') relating to The Russian Federation. The staging of the concessions and commitments listed in the Schedules shall be implemented as specified in the relevant parts of the respective Schedules.

6. For the purpose of the reference in paragraph 6(a) of Article II of GATT 1994 to the date of that Agreement, the applicable date in respect of the Schedules of Concessions and Commitments annexed to this Protocol shall be the date of entry into force of this Protocol.

PART III - FINAL PROVISIONS

7. This Protocol shall be open for acceptance, by signature or otherwise, by the Russian Federation until ….

8. This Protocol shall enter into force on the thirtieth day following the day upon which it shall have been accepted by the Russian Federation.

9. This Protocol shall be deposited with the Director-General of the WTO. The Director-General of the WTO shall promptly furnish a certified copy of this Protocol and a notification of acceptance by the Russian Federation thereto pursuant to paragraph 9 to each Member of the WTO and to The Russian Federation.

This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at … this … day of … in a single copy in the English, French and Spanish languages, each text being authentic, except that a Schedule annexed hereto may specify that it its authentic in only one of these languages.

ANNEX I

SCHEDULE – THE RUSSIAN FEDERATION

Authentic only in the … language.

Part I - Goods

(Circulated in document WT/ACC/RUS[…])

Part II – Services

(Circulated in document WT/ACC/RUS/[…]