

WORLD TRADE ORGANIZATION

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**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**

Addendum

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Paragraph No.	Comment
General comments	<p>[EC] <i>Fine-tuning of terminology.</i> We note that the commitment paragraphs will need to be reviewed on consistency of terminology used.</p> <p><i>Implications of Art XVI(4) WTO.</i> We note that Art XVI(4) WTO agreement requires that at all levels legislation have to be in conformity with the WTO. We consider it therefore insufficient to refer to an internal system defining the hierarchy between obligations deriving from international treaties and national legislation.</p> <p><i>Nature of commitments</i> We recall that amongst the main purposes of commitments is to provide assurances in reply to concerns raised by Members in the descriptive part. This implies that commitments will need the necessary level of detail.</p>
4-7	Introductory Statements
	<p>[JPN] With regard to the words, "In particular, . . .size enterprises" referred to in the second line of paragraph 5. Japan is of the view that inclusion of these words in the Report needs to be reconsidered as elements to be included in the Report should be those relating to trade and trade-related issues.</p>
8-91	ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE
8-17	Fiscal and Monetary Policies
	<p>[JPN] In the present section, there is a description concerning current policies by the Government of the Russian Federation (e.g. paragraphs 9, 10 and 12). As policies of the Government may be changed in the future, the present section should focus on the information concerning the institutional aspects of the Russian Federation's fiscal and monetary field.</p>
	<p>[USA] Paragraph 16 : Does the term "customs duties" refer to both import and export duties? If so, the text should be revised to include that information, as indicated below.</p> <p style="text-align: center;"><u>Specific Drafting Suggestions:</u></p> <p>Paragraph 16 : The text should also include a short description of the types of regional and local taxes that can be applied, similar to that given for federal taxes and, if available, the relative proportion of federal, regional, and local taxes applied to goods and services. The last portion of paragraph 16 should be revised to read:</p> <p style="padding-left: 40px;">16. . . . That Law distinguished between federal taxes, regional taxes, and local taxes. He noted, that Federal taxes comprised: the value-added tax, excise tax, uniform social tax, securities transaction tax, customs duties, both import and export, royalty tax for use of natural resources and extraction of minerals, profit tax imposed on legal persons, income tax imposed on natural persons, state duties, succession and gift tax, tax on the use of the words "Russia," "the Russian Federation," gambling tax and water use tax. Regional taxes comprised [add list of types of taxes] and local taxes comprised [add list of types of taxes].</p>

Paragraph No.	Comment
18-37	Foreign Exchange and Payments System
	<p>[AUS] We request Russia to adopt commitment language in response to the following paragraphs which we would like to see included in this section.</p> <p>x. A member of the Working Party considered the provision for the purchase of foreign currency for making advance payments for imports requiring the opening of a deposit in the currency of the Russian Federation and the formalities, fees and requirements associated with this provision to be inconsistent with the non-discrimination requirements of Article III of GATT 1994 and the requirements of Article XI of GATT 1994 and Article 4 of the Agreement on Agriculture, and called upon the Russian Federation to explain how these measures will be eliminated no later than the date of accession.</p> <p>x. A member of the Working Party considered the mandatory requirement to transfer [x] per cent of the currency earnings of exporters to the domestic currency to be an unjustifiable export restriction under Article XI of GATT 1994, and by restricting the subsequent use of foreign currency for imports to also be inconsistent with Article III of GATT 1994, and called upon the Russian Federation to explain how these measures will be eliminated no later than the date of accession..</p>
	<p>[EC] <u>Descriptive part</u>: further clarifications are necessary on surrender and on prepayment requirements. We note that this section refers to a maximum level for the surrender requirement of 30% but that the Central Bank lowered recently to 15%.</p> <p><u>Commitment</u>: the commitment proposed by Members will need to be updated. We note that the commitment proposed by the Russian Federation is no basis for discussions.</p>
	<p>[JPN]</p> <ol style="list-style-type: none"> 1. The contents of and the basic framework established by "On Currency Regulation and Currency Control" should be mentioned at the beginning of the present section. 2. For the sake of ensuring a fair balance in the contents of the present section, the element that foreigners are allowed to transmit the currency up to US\$10,000 without supporting document since February 2003 as a measure of liberalization of the export of currency out of the Russian Federation should be included in the present section. 3. The subparagraph 2 of paragraph 31 which requests the Russian Federation to abolish from the date of the accession to the WTO seems to be referring to the requirement for importers that they are requested to make a deposit in Rubles corresponding to the amount of the advance payment paid in foreign currency. Therefore, subparagraph 2 should be drafted in order to clearly reflect the above. 4. The element that a resident of Russian must obtain advance approval from the Ministry of Finance to convert Rubles into foreign currency to make related payments of more than US\$10,000 to a non-resident Russian under a contract for provision of services should be included in the present section as a currency control issue. And the Russian Federation's response to the above should also be included in the Report. 5. With regard to the issue of limitation on the period between advanced payment and customs clearance, a reference that a Member raised the issue should be included in the present section together with the Russian side's reply thereon.

Paragraph No.	Comment
	<p>[NOR] We request that the Russian Federation eliminates its import prepayment and export surrender requirements upon accession, as proposed in paragraph 36 of the Draft Report of the Working Party.</p>
	<p>[USA] <u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p> <p>Paragraphs 26-27 : The text states that the Russian Federation has the authority to require “reservation and use of special bank accounts” until 1 January 2007, but that the Government is not using the instruments provided in Article 7 of Federal Law 173-FZ , as amended by Federal Law 58-FZ of June 2004, to regulate currency transactions pertaining to capital movement.</p> <ul style="list-style-type: none"> - The text should clarify what guidance or limitation exists in the new Law on Russia’s application of this measure, the import prepayment requirement, the foreign exchange surrender requirements, or any tax on foreign exchange acquisition. - A specific list of products subject to the import prepayment requirement should be described, if it exists, and its relationship to the list of “Commodity Classification of Foreign Economic Activities” clarified in the text. <p>Paragraph 30 : The meaning of the statement “the mandatory surrender requirement was in force until 1 January 2007” should be clarified in the text.</p> <p>The text should be updated to note that the minimum level of foreign exchange subject to surrender requirements has been reduced further, to 10 percent, and the timeframe.</p> <p>Paragraphs 32 and 34 : Russia has indicated that prior import deposit requirements, still authorized by the new Currency law (Law No. 173-FZ of 10 December 2003 “On Currency Regulation and Currency Control,” as amended by Federal Law 58-FZ of June 2004), are not now enforced.</p> <ul style="list-style-type: none"> - The text should clarify Russia’s intentions on enforcement of such requirements and indicate the WTO-consistent conditions under which reinstatement could occur. <p><u>Elements of a Commitment:</u></p> <ul style="list-style-type: none"> - Confirm that from the date of accession, advance import prepayment and the tax on foreign exchange acquisition will not be applied and will not be re-introduced. - Confirm that mandatory foreign exchange surrender requirements will be eliminated no later than 1 January 2007 and will not be re-introduced after their elimination.

Paragraph No.	Comment
38-47	Investment Regime
	<p>[CAN] <u>Specific Problems:</u></p> <p>1. In paragraph 54, Russia states that:</p> <p style="padding-left: 40px;">"Furthermore, pursuant to Federal Law No. 160-FZ of "On Foreign Investments in the Russian Federation" foreigners were allowed to participate in privatization of federal and municipal property, state and municipal enterprises, etc., if the Government decides otherwise in each individual case."</p> <p style="padding-left: 40px;">Could Russia explain the circumstances under which foreigners would be prevented from participating in a privatization process?</p> <p>2. In paragraph 47, Russia states that:</p> <p style="padding-left: 40px;">"Article 4.1 of Federal Law No.160-FZ of 9 July 1999 "On Foreign Investments in the Russian Federation" ensured national treatment for foreign investors. However, exceptions could be imposed, for example, if required to protect the fundamental constitutional requirements or to ensure national security and defence interests, public order, morals, health, right and legitimate interests of other persons."</p> <p style="padding-left: 40px;">Could Russia explain what "right and legitimate interests of other persons" means? How is this exception applied? Does "right and legitimate interests of other persons" refer only to domestic persons, or are the interests of foreign persons considered under this exception? Where can Canada find additional information on this exception and its application?</p> <p>3. Paragraph 40 of the Working Party Report states:</p> <p style="padding-left: 40px;">"He noted that for national security reasons, foreign nationals and foreign legal entities could not own agricultural land, land located in the border territories determined as such by President of the Russian Federation in accordance with federal laws on State Border of the Russian Federation, or in closed administrative areas and other territories of the Russian Federation as specially stipulated by federal laws. Border zones were, as a rule, established within five kilometers (of the ward, city) from the State Border, the sea coast, banks of border rivers, lakes and other reservoirs and within the territories of the islands of these reservoirs."</p> <p style="padding-left: 40px;">This section of the report states that "as a rule", border zones are "established within five kilometers (of the ward, city) from the State Border, the sea coast, banks of border rivers, lakes and other reservoirs and within the territories of the islands of these reservoirs." Are there any exceptions to this "rule" for determining border zones? Could Russia please confirm that territory around "lakes" and "sea coast" is only considered "border territory", and therefore not available for ownership by a foreign national, when it lies within five kilometers of the border?</p> <p><u>Possible Solutions and Drafting Proposals:</u></p> <ol style="list-style-type: none"> 1. Russia should add a sentence that explains what factors are used to determine foreign participation in privatization of federal and municipal property, state and municipal enterprises, etc. Furthermore, can Russia explain why this discrimination is in their interest? 2. Russia could solve this problem in the text by adding some information on the term "right and legitimate interests of other persons" such as

Paragraph No.	Comment
3.	<p>how it is defined and applied and if it applies to persons other than domestic persons.</p> <p>Russia could solve this problem by changing the text as follows:</p> <p>"Border zones were, as a rule, established are defined as territory within five kilometers (of the ward, city) from the State Border, the sea coast, banks of border rivers, lakes and other reservoirs and within the territories of the islands of these reservoirs."</p> <p>Russia should further clarify that "border zones" are the same as "border territory", which is earlier referred to in the paragraph, or define how border territory is determined, if these two words do not have the same meaning.</p>
	<p>[EC] <u>Descriptive part.</u> Concerns to be addressed include:</p> <ul style="list-style-type: none"> - investment incentives : examples given are not complete, whilst this section serves to give a picture of the relevant investment incentives which the Russian Federation has in place. The list should be completed. - Exceptions to NT for foreign investors: a new paragraph has been included in third revision of the draft Working Party Report stating that there are exceptions to NT. So far, the understanding was that there were no exceptions. Whilst Russia has a right to put limits on foreign investors, the way the paragraph is drafted gives the impression that decisions on exceptions can be taken on an ad-hoc basis and without any clear criteria. This could imply that market access commitments can be jeopardised. <p><u>Commitment.</u> No commitment has been proposed in the Working Party Report. Depending on the clarifications provided for in the descriptive part, we may request assurances in the form of a commitment to confirm that exceptions to NT of foreign investors will not undermine market access commitments in GATS or GATT.</p>
	<p>[JPN]</p> <ol style="list-style-type: none"> 1. In paragraph 40, only Articles' number of "Land Code" is mentioned. Therefore, the contents of these Articles should be briefly explained. 2. In paragraph 40, it provides that "for national security reasons, foreign nationals and foreign legal entities could not own agricultural land, land located in the border territories determined as such by the President of the Russian Federation." We would like to know how a mechanism for avoiding the situation where the above-mentioned land would be determined arbitrarily and in a not transparent manner will be ensured. 3. As both paragraphs 40 and 42 deal with the same subject matter, they could be merged. As regards agricultural land lease, paragraph 42 provides that foreign national persons, foreign legal entities and legal entities with foreign participation exceeding 50 % are permitted to leasehold up to 49 years. Is it possible to renew this leasehold? If so, procedures pertaining to renewal should be mentioned briefly. 4. In paragraph 43, it states that the number of BITs concluded by the Russian Federation is 57. We would like to seek clarification from the Russian Federation on how many out of 57 BITs have signed, but yet to be concluded. 5. In paragraph 44, reference is made to the investment incentives to foreign investors. It should be clarified whether these incentive measures are compatible with the WTO agreements including the TRIMs Agreement. And the Russian Federation's commitment to that effect is required. 6. In paragraph 47, it states that national treatment for foreign investors is ensured pursuant to "On Foreign Investments in the Russian Federation", however, certain exceptions are enumerated. We would like to seek clarification from the Russian Federation on what the terms "protect the fundamental constitutional requirements" and "right and legitimate interests of other persons" mean concretely. We would also like to seek

Paragraph No.	Comment
	<p>clarification from the Russian Federation on whether "national security interests" referred to in the second sentence of paragraph 47 are only those that are indicated as "the following security related restrictions (i)...,(ii)....." referred to in the third sentence of the same paragraph. In any event, the Russian Federation's commitment to the effect that these exceptions are fully compatible with the WTO agreements is required.</p>
	<p>[SUI] In paragraph 45 it is mentioned that "foreign investors, inter alia, has the right to export without hindrance any revenues, etc ... after fulfilment of tax and other obligations." Switzerland is of the opinion that from its nature the free transfer should not be restricted in such a manner, in other words fulfilment of a contractual obligation, e. g. a debatable claim should not be per se a basis for restricting the free transfer. It might be helpful to learn what kind of concrete criteria would form sufficient grounds for the competent Russian authority to restrict the free transfer. In paragraph 47 it was indicated by Members during the Working Party meeting, that some additional information would be very helpful to understand the implication of paragraph 47 in terms of investment. Please elaborate on the meaning of "fundamental constitutional requirements" and "legitimate interests of other persons". Which are the criteria to consider that other persons have legitimate interests in order to restrict national treatment for foreign investors and are these domestic or foreign interests?</p>
	<p>[USA] Paragraph 41 : Confirm in the text the statement by the representative of the Russian Federation made at the November 2004 meeting of the Working Party that "the pre-emptive right to purchase or lease real property or land applies to foreigners." Paragraph 42 : Confirm in the text that agricultural land leases may be extended, by mutual agreement between investors and the responsible authorities, beyond the 49-year period indicated. Paragraph 47 : Restore information in this section recorded in previous versions of the draft WP report text deleted from Rev.3, i.e.: <ul style="list-style-type: none"> - on how foreign investors can acquire information on investment opportunities; and - the quote from Article 4.2 of the Foreign Investment Law that "restrictions for foreign investors could be imposed by the federal legislation solely to the extent which is necessary for the protection of the fundamentals of the constitutional system, morality, health, rights and legitimate interests of other persons, ensuring the defence and security of the state." Additional information should be provided on: <ul style="list-style-type: none"> - the definition of the term, "right and legitimate interests of other persons" which is regarded as grounds for denial of national treatment; - the legal basis and any regulatory or judicial interpretations of this phrase; - any additional circumstances/conditions (other than those specified in the Law on Foreign Investment) under which foreign investment can be restricted under Russian law. <u>Specific Drafting Suggestions:</u> Paragraphs 40 and 47 both contain information on foreigners' right to own land in Russia. The information in these paragraphs should be consolidated for clarity.</p>

Paragraph No.	Comment
	<p><u>Elements of a Commitment:</u></p> <p>- Pending: Depending upon responses to our requests for further information in the text and developments in services negotiations, a more detailed commitment may be required for clarity.</p>
48-60	State Ownership and Privatization
	<p>[EC]</p> <p><u>Descriptive part</u> Some aspects of the descriptive part in this section will need to be discussed/reviewed in connection with the section on state trading enterprises. Paragraph 53 and 54 could be drafted with more clarity.</p> <p><u>Commitment.</u> We attach importance to the general idea reflected behind the commitment proposed by Members. We consider the transparency commitment to contain a relevant signal and we consider that there is a systemic interest for such commitment. We also consider that this commitment needs to be completed with an appropriate instrument through which Members will be informed on a regular basis about the developments in the privatisation programmes and other economic reforms relevant for WTO obligations.</p>
	<p>[JPN]</p> <p>In paragraph 56, there is a detail explanation on unitary enterprises. In view of nature and activities of unitary enterprises, it is appropriate to provide a description on unitary enterprises in the section of "State-trading enterprises" comprehensively. Therefore, if necessary, we should provide a cross reference concerning unitary enterprises in this present section.</p>
	<p>[SUI]</p> <p>According to paragraph 54 foreign participation in privatization of selected industries, is now governed by Federal Law No 160-FZ (1999) "On Foreign Investment in the Russian Federation". According to this law, foreign investors are allowed to participate in the privatization of federal and municipal property, <u>unless the Government decided otherwise in each individual case</u>. Could the Russian Federation please elaborate on the specific criteria and on the basis which are used in these cases?</p> <p>Paragraph 57: Please provide a copy of the programme of privatization of State assets in 2004 that have been approved by the Russian Government in July 2003.</p> <p>Paragraph 58 (Progress achieved in the privatization process): Could the Russian Federation provide information on the new round of privatisation that the Russian authorities have recently announced which is intended to take place during 2005-2007?</p>
	<p>[USA]</p> <p>As this section in WT/ACC/SPEC/RUS/25/Rev.3 focuses almost exclusively on the Russian Federation's privatization program and given that discussion of state-owned and state trading enterprises has been substantially entwined in WP deliberations, we suggest placing information addressing State ownership in an expanded section on "State-owned and State Trading Enterprises" and renaming this section "Privatization."</p> <p>Requests for Information or Clarifications That Should be Reflected in the Text:</p> <p>Paragraph 49 : Federal Law No. 160-FZ "On Foreign Investment in the Russian Federation" should be added to the list of investment laws. (See paragraph 54).</p> <p>Paragraph 54 : The text should clarify the criteria that the government uses in its case-by-case decisions on whether a foreigner can participate in the privatization of federal and municipal property.</p> <p>Paragraph 55 : The text should also include information on state "ownership" based on less than 50 percent equity including instances where the</p>

Paragraph No.	Comment
	<p>government can exercise management control (i.e. to prevent or direct an enterprise's actions in certain situations, through a "golden share" or similar mechanism). Tables 2 and 3, reporting on privatizations in the periods 1993-2001 should be updated.</p> <p>Paragraph 57 : The text should indicate where the Government's new privatization program for the period 2004-2006 is published, and should describe the following:</p> <ul style="list-style-type: none"> - its provisions for enterprises exempted from privatization by name or without Presidential order; - if such exemptions applied only to unitary or "strategic" enterprises; and - if there is a new list of state unitary enterprises and joint stock holdings exempted from privatization. <p>The text should also clarify the relationship of the new privatization program to the two previous programs.</p> <p><u>Specific Drafting Suggestions:</u> Restore the information on Russia's privatization plans provided below (as provided in WT/ACC/SPEC/RUS/25/Rev.2) after paragraph 57 of WT/ACC/SPEC/RUS/Rev.3:</p> <p>"Thus, the Government continued the privatisation process, liquidating its financial holdings in many economic sectors where the state still had owned assets. In 2004, the Government intended to privatise stakes in all remaining incorporated companies where it owned less than 25% of the shares. In its programme for further privatization, the Government excepted from selling only those assets that are either banned from privatisation by law or have 'strategic importance'. For instance, the government planned to keep its stakes in electricity companies until the completion of the reform of Unified Energy Systems (UES). The Government also planned to keep its stake in Gazprom and other companies in natural gas production and distribution. Their future privatisation would be organised separately, as part of reform of the gas monopoly. The government also planned to keep some of the transport infrastructure (e.g. some airports) in state ownership. Rail privatisation would also be handled separately, within the railway reform programme.</p> <p>In 2005, the government plans to sell stakes in all remaining incorporated companies where it owns stakes of shares of between 25% and 50%. This means that the state will no longer have a direct financial or equity ownership presence in firms and enterprises involved in machine-building, foreign trade, banking, coal-mining, textiles, car-making, timber, fisheries, cinema production and distribution.</p> <p>In 2006, the government will sell companies in which it owns stakes over 50% and which do not have 'strategic value' as defined in It will no longer directly participate in the financial aspects or commercial management of airlines and airports, the chemical and petrochemical industries, printing, geological prospecting and agriculture."</p> <p><u>Elements of a Commitment:</u> Paragraphs 59-60 : We support the commitment text in paragraph 59 as a basis to build a commitment in this section.</p>

Paragraph No.	Comment
61-85	Pricing Policies
	<p>[AUS]</p> <p>1. We request Russia adopt the following commitment language in this section in relation to minimum prices on alcohol (subject of paragraph 67) applied at the retail level to both domestic and imported products.</p> <p>67. [...] A member of the Working Party noted however that WTO jurisprudence had established that a regulation requiring that domestic and imported products both adhere to a minimum-price requirement is not consistent with Article III of GATT 1994 because the imported product is prevented from being supplied at a price below that of the domestic product. This member asked how the minimum price requirements for vodka, liquor products and other alcohol stronger than 28 per cent will be brought into conformity with Article III by the date of accession. The representative of the Russian Federation replied [...].</p> <p>2. We seek inclusion in the text of appropriate factual references to administered prices for agricultural products, as a basis for commitment language. In addition to this factual information we seek:</p> <ul style="list-style-type: none"> - inclusion, as appropriate, in Tables 4 and 5 of such information relating to the administered prices applied in 2004 (if any); - insertion of the following paragraph after amended paragraph 67: <p>67A. In reply to a question from a member of the Working Party, the representative of the Russian Federation confirmed that government purchases of a number of agricultural products were undertaken at pre-announced administered prices in order to provide market price support to domestic producers. Programs had been operated to undertake such purchases at administered prices of cattle, sheep and goats, pork, poultry, dairy products, eggs, wool, wheat, rye, corn, barley, sunflower seeds, sugar beets, flax and hemp, and potatoes. This list of such products is exhaustive. However, in recent years such purchases were undertaken only for [milling wheat in [...]] [...]. In reply to another question from this member, the representative of the Russian Federation confirmed that no regulations were applied that could prevent imports of any like product mentioned in this paragraph from being supplied at a price below that of the domestic product.</p> <p>3. We note that the world price-contingent tariffs for imported raw cane sugar introduced on 1 January 2004 is based on a variable import levy, and that the internal reference price for the levy falls to the range US\$347 to US\$369 per tonne when the world price of sugar is between US\$0.045 and US\$0.090 per pound. We request that:</p> <ul style="list-style-type: none"> - the internal reference price range of US\$347 to US\$369 per tonne (when the world price of raw cane sugar is in the range US\$0.045 to US\$0.090 per pound) for this variable import levy be recorded in Table 4; - a column be added to Tables 4-6 for the "legal basis for the price measure", and another column added for the "WTO justification or date of elimination". In this column we seek a reference to the elimination of these internal reference prices, and the variable import levy used to establish them, before the date of accession; - the insertion of the following paragraph after the proposed paragraph 67A:

Paragraph No.	Comment
	<p>67B. In reply to a question from a member of the Working Party, the representative of the Russian Federation confirmed that world price-contingent tariffs for imported raw cane sugar had been introduced on 1 January 2004 and that such an arrangement was based on a variable import levy. The internal reference price for this variable levy fell to the range, US\$347 to US\$369 per tonne when the world price of sugar fell to the range, US\$0.045 to US\$0.090 per pound. The member concerned sought details of how the internal reference prices and the variable import levy that established them would be eliminated before accession to achieve conformity with the prohibition on measures of this kind under Article 4 of the Agriculture Agreement. The representative of the Russian Federation said [...].</p> <p>4. The title and contents of Table 5 taken together suggest that Sub-Federal Executive Bodies do not have powers to regulate prices, including to impose mark-up restrictions, for any agricultural product. We seek clarification as to whether this is correct, and:</p> <ul style="list-style-type: none"> - if so, the insertion of the following text after paragraph 69: <p>69A. In response to a question by a member of the Working Party, the representative of the Russian Federation confirmed that Sub-Federal Executive Bodies did not have any powers to regulate prices, including to impose mark-up restrictions, for any agricultural product and accordingly did not maintain or apply such regulations.</p> <ul style="list-style-type: none"> - if not, details of the price regulations (including mark-up restrictions) in Table 5, elaboration of the powers of Sub-Federal Executive Bodies in the context of paragraph 69, and descriptions of any such measures applied by these bodies. <p>5. We note Russia provided details of ceiling prices applied under the "Program for Federal Budget Compensation of 30 per cent for Mineral Fertilizer and Chemical Plant Protection Product Costs" in its Non Paper No.13 of 24 September 2002. We seek:</p> <ul style="list-style-type: none"> - inclusion in Tables 4 and/or 5, of details relating to the ceiling prices applied under this program; - insertion after paragraph 69 the following paragraph: <p>69B. In reply to a question from a member of the Working Party, the representative of the Russian Federation confirmed that ceiling prices were applied to purchases under auctioned state contracts under the "Program for Federal Budget Compensation of 30 per cent for Mineral Fertilizer and Chemical Plant Protection Product Costs". He also confirmed that the Agriculture Ministry and Sub-Federal bodies applied mark-up restrictions on, and fixed service charges relating to, the sale of mineral fertilizers and chemical plant protection products supplied to agricultural producers under this program.</p>
	<p>[CAN] <u>General Comments:</u></p> <p>In paragraph 74, there is a good description of the problem with energy prices that do not fully reflect production costs and a reasonable profit. However, there is unacceptable Russian text which suggests it is not a subsidy, that it may not be resolved in a timely manner and may not be addressed at all for gas consumers in remote locations. The current commitment language lacks specificity in its description of the costs that must be covered in gas prices and fails to provide a timeline for reforming the current pricing regime.</p>

Paragraph No.	Comment
	<p data-bbox="315 169 524 196"><u>Specific Problems:</u></p> <ul style="list-style-type: none"> <li data-bbox="315 229 1955 288">- Despite questions raised by Canada and others, Russia continues to insist in paragraph 77 that its system of state control of energy pricing does not, under the terms of the WTO Agreement on Subsidies and Countervailing Measures (SCM), constitute a countervailable subsidy. <li data-bbox="315 292 1955 351">- Canada does not agree with this interpretation and would like to a much fuller explanation of how non-market pricing on input products (gas, electricity, oil) used by industries (fertilizers) could not be countervailable. <li data-bbox="315 354 1955 381">- In Canada's view, the system of such state control on energy pricing is clearly covered by the definition of subsidy in the SCM Agreement. <li data-bbox="315 384 1955 472">- There is no indication of when gas pricing reflecting the cost of production and a reasonable profit would be achieved. Paragraph 75 refers to it "not occurring overnight". Paragraph 76 suggests it might not occur until 2020. The draft commitment text in paragraph 83 has no time frame associated with it. <li data-bbox="315 475 1955 534">- The draft commitment text in paragraph 83 does not provide a sufficiently detailed description of the different cost elements that need to be covered in determining the appropriate cost of gas (N.B. the fertilizer industry is working on this). <li data-bbox="315 537 1955 596">- Paragraph 76 indicates that gas consumers in remote locations are not subject to price setting based on cost recovery plus a profit. Fertilizer production occurs in remote locations. <li data-bbox="315 600 1955 751">- We also note that several references to telecoms services in this section have been changed or deleted. Specifically, the previous version identified telecom as one of the sectors considered to be a natural monopoly (i.e. it used the phrase "electric and postal communication services," and "electric" was defined as including telecom services: para. 63, footnote 4). The new version of the report deletes the references to telecoms and "electric" and now merely lists "postal and communication services"; it is not clear whether this still includes telecommunications. Could the report be clarified in this regard? <p data-bbox="315 815 777 842"><u>Possible Solutions and Drafting Proposals:</u></p> <ul style="list-style-type: none"> <li data-bbox="315 876 1955 935">- In general, there is a need for a much fuller explanation of how non-market pricing on input products (gas, electricity, oil) used by industries (fertilizer) could not be countervailable. <li data-bbox="315 938 1955 997">- Paragraph 75 must be modified to remove the reference to gas pricing reform not occurring overnight. This is not an accurate reference to what Members recognized. <li data-bbox="315 1000 1955 1027">- Paragraph 77 needs to be redrafted to substantiate why non-market gas prices are not a subsidy or removed. <li data-bbox="315 1031 1955 1209">- Paragraph 83 needs to be redrafted to: <ul style="list-style-type: none"> <li data-bbox="412 1090 1955 1117">- indicate that gas pricing for industrial users will be reformed upon accession; <li data-bbox="412 1120 1955 1147">- include a more fulsome description of the currently enumerated costs to be reflected in gas prices for industrial users; and <li data-bbox="412 1150 1955 1209">- clearly state that the Energy Strategy of the Russian Federation referenced in paragraph 76 will be changed to meet the obligations in - paragraph 83 upon accession, including gas pricing reform for industries in remote locations.
	<p data-bbox="315 1217 376 1244">[EC]</p> <p data-bbox="315 1248 495 1275"><u>Descriptive part</u></p> <p data-bbox="315 1308 810 1335">The following issues will need to be resolved:</p>

Paragraph No.	Comment
	<ul style="list-style-type: none"> - Natural monopolies. We take note of the definition of natural monopolies provided for in Russia's legislation but disagree with the economic rationale for such definition and are concerned about the room this definition may leave for arbitrary extension of these exclusive rights. We do not wish to explicitly or implicitly recognise this definition. We therefore propose to delete any definition based on Russia's legislation. - Discriminatory railway fees. We are concerned about the step backwards as compared to rev2, in particular deletion of the intentions to harmonise railway freight fees for exports destinations through land border points with domestic destinations (including Russian ports). We request a redrafting of this section reflecting adequately the current situation and future prospects. <p>The EU is satisfied with paragraph 83 on gas pricing and with paragraph 67 on alcoholic beverages.</p> <p><u>Commitment</u></p> <p>The commitment will need to include the following elements</p> <ul style="list-style-type: none"> - The commitment proposed by Members contain the elements we would like to see addressed. The concrete language may need to be fine-tuned. We disagree with Russia's view that GATS is irrelevant for price controls. The sentence on alcoholic beverages may need to be redrafted and taken up on the reply given in paragraph 67. - A commitment to eliminate the discriminatory elements in Russia's railway freight fees will need to be added, i.e. the equalisation of tariffs for domestic destinations (including to and from Russian ports) and international itineraries using a land border crossing (both imports and exports). We consider this commitment can be met through introduction of harmonised railway freight fees. We consider this commitment will meet requirements of Articles III and XI GATT. We note that a similar commitment is necessary in the section on Transit in order to avoid differentiated fees for goods transiting Russia as compared to domestic fees. - Even if for the EU the question of gas price and of alcoholic beverages have been resolved, the commitment paragraph will need to be completed for these two points: paragraph 83 could be removed after the general commitment, and brackets around "the Working Party took note of this commitment" should be removed. For alcoholic beverages, paragraph 67 should be retaken in a commitment.
[JPN]	<ol style="list-style-type: none"> 1. In paragraph 62, the definition of "natural monopoly" is provided. From the structural point of view concerning the present section, such definition should be in the footnote rather than placed in the text itself. 2. We would like to clarify the difference between "local natural monopoly" referred to in paragraph 69 and "natural monopoly" referred to in paragraph 62. 3. In paragraphs 70-73, information on tariffs for railways as well prices for cargoes is provided. However, it should be more simplified and concise. From this point of view, we should re-consider including the contents of structural reform of the railway system in the Report. 4. Since the first sentence of the paragraph 76 only states the legal status concerning underground resources in general and is not much related to these paragraphs dealing with the prices of gas, it should either be deleted or be moved to some other appropriate places. 5. In paragraph 75, reference is made to the Russian Federation's regulatory reform in the energy field in a sympathetic way. We should re-consider the necessity of inclusion of this reference in the Report. Given the lengthy description on gas prices and in light of making the section concise, we should consider deletion of such reference. 6. Since paragraphs 81-83 describe gas prices, it is appropriate to place them after paragraph 77 in light of sequence.

Paragraph No.	Comment
	<p>[NOR] We thank the Russian delegation for the information provided with regard to railway tariffs and the reform of the railway system in paragraphs 70 – 73. We would, however, appreciate more exact information as to when the second stage of the unification of tariffs will be implemented, and the current discriminatory pricing for transportation of railway freight be fully eliminated.</p> <p>The pricing of natural gas (except when sold for domestic household consumption), and especially the impact of dual pricing in favour of manufacturing industry such as the fertilizers industry, will have to be further discussed (c.f. paragraphs 74 - 85). We would appreciate further information about the reform of the gas sector as mentioned in paragraph 78.</p>
	<p>[SUI] As regards the future unification of railway freight tariffs mentioned in paragraphs 71, 72 and 73, additional information needs to be added on the second stage of tariff unification, specifically how and when the elimination of the discrimination between domestic and foreign railway freight rates would be completed and if the harmonization concerns only imports or also imports and exports and in which cases. If we have understood paragraph 73 correctly, the same pricing scheme on import-export cargoes and domestic products would be completed in 2005. Please confirm this and specify how it will be realised. Paragraph 73: what do you mean by "competitive sectors"?</p>
	<p>[USA] <u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p> <p>Paragraph 71 : When will Price-List 10-01 be extended to import cargoes shipped through Russia’s border land checkpoints? Paragraph 73 : The description of the second phase of the reform program (2003-2005) for the railway sector states that this involves “the transition to free pricing in competitive sectors.”</p> <ul style="list-style-type: none"> - Additional information should be included in the text on the status of this transition, on which sectors are considered competitive, and whether a “transition to free pricing” has occurred for any sector. <p>The Russian Federation should discuss in the text what it considers to be the “cost of production, overhead, financing charges, transportation, maintenance and upgrade of extraction and distribution infrastructure, investment in the exploration and development of new fields.” (Note: This material should be added in a separate paragraph in the factual part of the section, to support what is suggested by Russia in paragraph 83. End note).</p> <p><u>Specific Drafting Suggestions:</u></p> <p>Paragraph 62, penultimate sentence: Replace the words “natural monopoly sectors included. . .” with the words “the natural monopoly sectors consisted of” preceding the list of natural monopoly sectors, to make the text consistent with the statement in the following sentence indicating that the list is exhaustive.</p> <p>Paragraph 76 : The statement that "except those situated in remote geographical [sic] locations," implicitly acknowledges that cost-recovery-based pricing does not apply in remote areas, thus leaving open the possibility that some industrial enterprises situated in such locations will continue to receive below-cost gas.</p>

Paragraph No.	Comment
	<ul style="list-style-type: none"> - Does paragraph 76 apply to both industries and households? It is our understanding, based on statements such as that in paragraph 83, that pricing of natural gas sold to households and non-commercial consumers is “based on considerations of domestic social policy.” The reference in paragraph 76 to “all gas consumers” needs clarification. - The paragraph should indicate how "remote" locations are defined and approximately what proportion of customers receives such treatment. - We question the statement that “the deregulated price . . . is close to the regulated price.” (Emphasis added). Additional language should be provided in paragraph 76 reflecting the following information, which Russia provided previously to the Working Party, as follows: <ul style="list-style-type: none"> - For new industrial customers, and for any increased quantity of gas supplied by Gazprom to its existing customers, and for gas from producers other than Gazprom, the price of gas is was not regulated. and that tThe unregulated price was generally 30 to 40 percent higher than the regulated price. Approximately 70 percent of natural gas in Russia is sold at the regulated price and 30 percent is sold at the unregulated price. <p>Paragraph 78 : The current status of Order No. 12/1 must be clarified, i.e., is it repealed, suspended, simply not applied?</p> <ul style="list-style-type: none"> - The following statement should be added to the text: <u>“Price reductions are not being provided to any other industries.”</u> <p>Paragraphs 81-83: These paragraphs remain unclear. Paragraphs 75-76 imply that for an interim period, price increases for natural gas will be needed to achieve the basic principle also stated in paragraph 76, i.e., ensuring economically viable production and recovery of costs, which also includes costs of investments done or planned, and recovery of profits.</p> <ul style="list-style-type: none"> - Specific drafting suggestions for Paragraph 82 : <p>82. Members of the Working Party noted that discussions in the Working Party had served to clarify the pricing of gas. However, those Members remained concerned that the regulated price for gas used by industrial consumers was not fixed at a level that permitted a gas supplier a full and proper recovery of all costs and an amount for profit. According to a detailed examination of the costs required for production and sustainability of production of natural gas, the World Bank (as referenced in the most recent OECD Economic Survey of the Federation of Russia) has estimated Gazprom’s full long run marginal cost of producing natural gas at US\$35 to US\$40 per thousand cubic meters. They also pointed out that Gazprom entered into a long-term contract to purchase natural gas from Turkmenistan (April 2003) at US\$44 per thousand cubic meters, which indicates that Gazprom may be unable over the long term to produce gas itself at lower a price. They requested a confirmation from the Russian Federation that gas suppliers would act on the basis of commercial considerations, based on full recovery of costs and a reasonable profit.</p> <p><u>Elements of a Commitment:</u></p> <p>Following are specific drafting suggestions to clarify the commitment in paragraph 83 :</p> <p>83. In response to the concerns expressed, the representative of the Russian Federation indicated stated that <u>immediately upon accession</u> producers/distributors of natural gas in Russia would will operate within the relevant regulatory framework on the basis of normal commercial</p>

Paragraph No.	Comment
	<p>considerations, based on recovery of costs and profit. He confirmed that his Government's policy was to will, in regulating prices, ensure immediately upon accession, and thereafter, that these economic operators, in respect of their supplies to industrial users, would will recover their costs (including the cost of production, overheads, financing charges, transportation, maintenance and upgrade of extraction and distribution infrastructure, investment in the exploration and development of new fields) and will would be able to make a reasonable profit, in the ordinary course of their business. He added that his Government would continue to price supplies for to households and other non-commercial users, based on considerations of domestic social policy. ¶The Working Party took note of this commitment.¶</p> <p>In addition, the text of paragraph 84 is a good starting point for development of a general commitment for this section, including the following elements: a date, by which time Russia will unify its railway rates;</p> <ul style="list-style-type: none"> - as indicated in the redraft of paragraph 83, a clear statement of when the elements of this commitment will take effect; - that application of price controls on goods and services will be in a manner consistent with Russia's WTO obligations, including Article III:9 of GATT 1994; - that price controls will not be used for purposes of affording protection to domestic industries or service providers; - that there will be full transparency in: (1) the process by which gas is rationed domestically at the regulated price; (2) the methodology and process by which regulated gas prices are determined; and, (3) the unbundling of the accounts of Gazprom and its subsidiaries according to activity – production, transportation, processing, storage and distribution; and - that during the interim between the date of accession and the date when prices will permit full cost recovery, including future investment costs, 54in particular the text should specify that “the percentage of gas sold to industrial users at unregulated prices will increase [by X percent] each year.”
86-91	<p>Competition Policy</p> <p>[CAN] <u>General Comments:</u></p> <p>Although summarized, the text does provide a considerable level of detail on the efforts/activities of the Federal Anti-Monopoly Service to break up monopoly activity and anti-competitive activity in Russian commodity markets in particular. The text could use further information on the relationship of the infringement of intellectual property rights and competition law.</p> <p><u>Specific Problems:</u></p> <p>There is no explanation regarding the stated relationship between infringement of intellectual property rights and anti-competition behaviour.</p> <p>There is no explanation as to the conditions under which action by the federal Anti-Monopoly Service can be triggered.</p> <p>Paragraph 91 refers to the disposition of 8,540 cases in which the federal anti-monopoly service was invoked. Russian authorities could be encouraged to provide more detail as to the outcome of these cases.</p> <p>Further explanation regarding the definition of and differences between administrative sanctions and administrative caution would be helpful.</p>

Paragraph No.	Comment
	<p>[JPN]</p> <ol style="list-style-type: none"> 1. As we understand it, Article 18 of "the General Competition Law" stipulates that important mergers and acquisitions are subject to prior notification and preliminary consent of the anti-monopoly authority. We would like to seek clarification from the Russian Federation on whether there is any case that merger of a foreign company and a Russian company was rejected pursuant to this Article. 2. We understand that issues relating to consumer protection which used to be the responsibilities of the Ministry of Anti-Monopoly Policy have been transferred to Federal Service for Supervision in the Area of Protection of Consumer's Rights and Human Welfare and that the newly established Federal Service on Tariff is responsible for the regulation of natural monopolies and prices (tariffs) in the power industry, oil and gas complex, railways and transport terminals, postal communication, etc. These facts should be briefly mentioned in the present section as an example of the Government of the Russian Federation's administrative reforms which aims at closely monitoring the relationship between competition issues and tariffs.
	<p>[NOR]</p> <p>In paragraph 87 it is stated "...that any anti-competitive market structure and unfair business practices that impeded competition were subject to anti-monopoly laws."</p> <p>However in paragraph 86 where the report lists relevant legislation in this area, apart from the financial sector (that is regulated by Law No 117-FZ of 23 June 1999) we find it difficult to identify competition legislation that applies to the services sector. We attach great importance to the services sector, since this sector constitutes a vital part of most of the developed economies. Hence, we would like to receive further clarification on this issue.</p>
	<p>[USA]</p> <p><u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p> <p>- Include information on where the Government's competition policy is published or made available to the public.</p>
92-119	FRAMEWORK FOR MAKING AND ENFORCING POLICIES
	<p>[EC]</p> <p><u>Descriptive part</u></p> <p>We note that the right of appeal is well addressed for customs issues, but that other aspects are only briefly elaborated. A priori, we consider other areas need more detail. To be checked in connection with explanations on right of appeal in the corresponding sections (e.g. TBT, TRIPs).</p> <p><u>Commitment:</u></p> <p>We consider that the commitment proposed contain the elements we would like to see included, in particular:</p> <ul style="list-style-type: none"> - Assurances that WTO Agreements are applied throughout the entire RF territory, in a uniform manner. - Assurances that the federal government, when informed of non-application or non-uniform application, will be proactive in resolving such question and to not just send interested persons to the courts. - Confirmation of the right to independent legal review for matters involving international trade, with the specific legal remedy instruments provided for in the corresponding WTO articles (X GATT, TBT, GATS etc).

Paragraph No.	Comment
	<p>[USA] <u>Elements of a Commitment:</u></p> <p>We support the commitment language proposed in paragraphs 117-8 rather than the Russian alternative in paragraph 119. While we are willing to address Russia's concerns over paragraph 117 regarding the references to "other territories under the Russian Federation's control within its state border, including in regions engaging in border trade or frontier traffic," the basic commitment on uniform application in this text is important to the United States and the commitment should remain as proposed.</p>
92-100	Powers of Executive, Legislative and Judicial Branches of Government
	<p>[JPN]</p> <ol style="list-style-type: none"> 1. There should be a brief description in the Report on the fact that in March 2004 as a result of the administrative reform the Government structure was streamlined into three categories, i.e. Federal Ministries, Services and Agencies and description on the respective responsibilities of these three bodies. 2. In paragraph 94, there is an explanation on judicial system. There should be an additional explanation in this paragraph that the public prosecutor's office is the main body responsible to ensure general observance of legal acts and regulations by federal and regional administrations. 3. Since the last sentence in paragraph 99 deals with the relationship between the central government and regional governments, it should be moved to the section deals with such relationship. 4. As regards judicial system, reference should be made to a system of different levels of trials in the Russian Federation's judicial field. And if administrative tribunal has some relevancy with trade issues, reference should also be made to it.
101-107	Government Entities Responsible for Making and Implementing Policies Affecting Foreign Trade – Right of Appeal
	<p>[JPN]</p> <ol style="list-style-type: none"> 1. As the Ministry of Economic Development and Trade is the Russian Federation's Government entity primarily responsible for foreign trade, its main areas of responsibilities as well as those Services and Agencies under the umbrella of the Ministry should be mentioned in the Report. 2. With regard to the right to appeal, there are explanations on appeal or review in the fields of custom (paragraphs 103-105), tax (paragraph 106) and technical regulation (paragraph 107). However, no reference is made to appeal or review in the fields of IPR, TRIMs, SPS, etc. Therefore, it should also be included in this section or it should be addressed in such section dealing with IPR, TRIMs, SPS, etc respectively. Additionally, the fact that Article 27 of the Code of Civil Proceedings provides the possibility of appealing to the Supreme Court against the Government and other administrative authorities concerning rights and lawful interests of persons including customs regulations and measures should be included in the Report. 3. In paragraph 101, it provides that "the central Government would monitor and take active steps...by a WTO member or other interested party.". It should be moved to the section of "Division of authority between central and sub-central governments" as it would be better dealt with in that section.

Paragraph No.	Comment
108-119	Division of Authority between Central and sub-Central Governments
	<p>[JPN]</p> <ol style="list-style-type: none"> 1. Under the Russian Constitution, there are areas that the federal government has the responsibilities as well as areas that both the federal government and its components jointly have responsibilities and competence. For the sake of clarity, these facts should be mentioned in a paragraph comprehensively (Currently, these facts are scattered in various paragraphs including paragraph 109). In doing so, the following elements should be briefly included; <ol style="list-style-type: none"> i No legislation to be adopted by subjects should be contradictory to the Constitution. In case of contradiction, the federal laws override such legislation. ii Article 71 of the Constitution provides an exhaustive list of matters to which the federal government has an exclusive jurisdiction. Those matters not contained in the list are regarded as the ones to which subjects have jurisdiction. iii Article 72 of the Constitution provides a list containing those matters subject to the joint jurisdiction. In this regard, laws enacted by the federal government precede laws enacted by subjects. iv All treaties and conventions which the Russian Federation concluded precede domestic laws and regulations (Reference is made to this point in paragraph 109). 2. As we understand it, in November 2002, the Commission under the President of the Russian Federation to Prepare Proposals on the Delineation of subjects of Jurisdiction and Authorities between the Federal State Bodies of Powers, Bodies of State Power of the Russian Federation Member and Bodies of local Self-Government submitted two draft laws which clarify areas of responsibilities among the federal, regional and municipal governments. We would like to seek clarification from the Russian Federation on the current status of these two draft laws. If appropriate and necessary, they should be concisely included in paragraph 115. 3. In paragraph 110, reference is made to "On the fundamentals of State Regulation of Foreign Trade Activity" and there is an explanation on the legal framework concerning foreign trade in Russia. With regard to the above Law, the following reference should be made in the paragraph; <ol style="list-style-type: none"> (i) It establishes the relative competence of the federal and regional governments in foreign trade; (ii) It assigns the federal government the responsibilities of developing federation's trade policies, etc; (iii) It also provides that joint responsibilities are assigned to those areas such as export promotion, etc; (iv) Commitments provided in paragraph 117 should include an explicit reference to Paragraph 3(a) of Article 10 of GATT 1994.

Paragraph No.	Comment
120-560	POLICIES AFFECTING TRADE IN GOODS
120-127	Registration Requirements for Import/Export Operations
	<p>[AUS]</p> <p>1. We welcome Russia's efforts to date to bring its registration and activity licensing requirements into conformity with WTO rules. We would appreciate further clarification of facts to enable us to move to considering commitment language (Russia could provide this in an updated paper on Import Licensing Procedures – WT/ACC/SPEC/RUS/21/Rev.1). In particular we seek further information in paragraphs 120-124 on:</p> <ul style="list-style-type: none"> - procedures for making applications and receiving responses, including when submissions can be submitted, approval periods, and grounds for refusal of state registration (paragraph 122); - confirmation that "engaging in economic activity" (paragraph 122) also includes export and import activity - other administrative means of appealing the refusal of registration than through application to a court. <p>2. In paragraph 126, Russia contests whether Article VIII:1(a) of GATT 1994 is applicable to licensing fees, suggesting that it only concerns customs fees. We note that Article VIII:4 indicates clearly that provisions of the Article also extend to requirements such as licensing. We request that amendments to paragraphs 125 and 126 as follows:</p> <p style="padding-left: 40px;">125. Several members.... 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 <i>and Article VIII:4(c)</i>, 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 of GATT 1994.</p>
	<p>[EC]</p> <p><u>Descriptive part:</u></p> <p><i>General trading right.</i> the WPR contains an error in that foreign persons (as defined in Foreign Trade Activity Law, Article 2(11)) are allowed to engage in import and export operations in conformity with Article III GATT and XI GATT and that there is no requirement to be established or permanent resident in RF.</p> <p><i>Exceptions.</i> The list of areas subject to an activity licence needs to be completed. We understand ICT products are included in that list and note that further discussions on this issue will be necessary as we do not see how restrictions to non-sensitive ICT products could be justified under Art XX or XXI GATT. We will analyse other products included in exceptions.</p> <p><i>Fees for activity licences.</i> Fees for activity licensing will need to be commensurate to the cost of the service rendered, to the extent that the activity licence is required in order to engage in import or export operations. An explanation of how Russia applies its fees in this respect is still missing in the WPR.</p> <p>There are some precisions to be made in the descriptive part, including on the question of exports of energy products for which further clarification is necessary of the regulatory instrument used (see also paragraph 144).</p>

Paragraph No.	Comment
	<p><u>Commitment</u> The commitment proposed contain the elements we would like to see included. Specific language will need to be added for changes introduced to the scope of activity licensing (e.g. elimination of activity licence for imports and exports of alcoholic beverages, including the elimination of a turnover requirement).</p>
	<p>[JPN]</p> <p>1. In paragraph 121, there is an explanation on "On the Fundamentals of the State Regulation of Foreign Trade Activity". In the context of the present paragraph, since the Law is described as the legal framework stipulating responsibilities of the federal authorities concerning foreign trade, the paragraph should include a comprehensive explanation on the Law, i.e. the Law deals with the principal concepts pertaining to foreign trade such as trade in goods and services, free trade zones, etc. In addition to these, the provisions in the Law containing elements of the following general principles should be highlighted:</p> <ul style="list-style-type: none"> (a) National Treatment; (b) Non-discrimination; (c) Avoidance of trade restrictive measures; (d) Transparency <p>2. In paragraph 126, a reply to the question concerning activity licensing submitted in paragraph 125 is provided. With regard to activity licensing, reference should be made to the point that Article 17 of the Law on Licensing of Specific Activities provides a list of activities for which a license may be required and also to the point that activity licensing concerning a number of activities excluded from the Law are covered by each legislation. Furthermore, we have learned that under the Law on Licensing of Specific Activities the number of activities subject to licensing was reduced, that the validity of licenses was extended from three years to five years and that licensing fees were reduced from 3000 Rubles to 1300 Rubles. These points need to be clarified and included in the Report in a concise manner.</p> <p>3. In paragraph 125, Members of the Working Party pointed out that "registration requirements" or "activity licensing" should not operate to restrict imports in a manner violating Article XI:1 of GATT 1994. The Russian side responded in paragraph 126 that such matters as the right to trade in goods, "registration requirements" or "activity licensing" were regulated by the provisions of the WTO agreement on trade in services. Bearing in mind that such measures restricting the right to trade in goods should be abolished, clarification should be made with respect to the meaning of the above Russian response as it is not clear.</p>
	<p>[SUI]</p> <p>We welcome the additional information provided and the improvements foreseen in some areas.. However some additional clarifications are needed in this section.</p> <p>Paragraph 121: Contrary to what is indicated in this paragraph, there seems to be more than three products subject to activity licence. Please provide an exhaustive list of the goods subject to activity licence.</p> <p>Paragraph 122 : Please also confirm that the possibility to resubmit the application for registration is foreseen by Federal law No 129-FZ of 8 August 2001 and specify the relevant article of the law.</p> <p>Paragraph 124 : Please specify the article of the law that foresees that any interested person can request information on the establishment, reorganization and liquidation of legal persons.</p> <p>Paragraph 125-126 : Contrary to the opinion of the Russian Federation, Article VIII.1a GATT is not limited to customs related fees, as Article VIII:1a speaks of "all fees and charges of whatever character" and Article VIII:4 GATT adds that the provisions of Article VIII shall extend to fees, charges,</p>

Paragraph No.	Comment
	<p>formalities and requirements imposed by governmental authorities in connection with importation and exportation, including those relating to c) licensing." Thus, licensing fees are also subject to Article VIII GATT and will be limited to the approximate cost of services rendered. We therefore seek a commitment from the Russian Federation to limit all fees and charges within the purview of Article VIII GATT to the approximate cost of services rendered so that they do not represent an indirect protection to domestic products or a taxation of imports or exports for fiscal purposes.</p>
	<p>[USA] <u>Elements of a Commitment</u></p> <p><u>General</u></p> <ul style="list-style-type: none"> - All laws, regulations and other measures relating to registration as an importer or exporter and their application, e.g., requirements that must be met to be the importer of record, will be, as of the date of accession, in compliance with WTO requirements, including Articles III, XI and VIII of GATT 1994. - In particular, the Russian Federation should confirm that: <ul style="list-style-type: none"> - all products may be imported into the Russian Federation without requiring an import/export activity license; in other words, the Russian Federation will eliminate any such requirement that may apply to the business of import or export of pharmaceuticals; ethyl alcohol; precious metals and stones; commercially available products with encryption devices; or any other product that has not previously been identified as subject to such licenses; - an import license will be granted to an importer of record of such products without requiring an activity license to engage in distribution or production of the product; - establishment of a representative office or other investment in the Russian Federation will not be required to register as an importer or exporter or to acquire import or export licenses; and - transparency requirements, including those set out in other sections of the Report of the Working Party, will apply to registration as an importer and/or exporter. - Any commitments relating to registration as an importer or exporter are without prejudice to the Russian Federation's requirements for those who engage in the distribution or production of products. While imported products must be provided non-discriminatory access to Russia's channels of distribution, engaging in distribution itself is subject to the limitations set out in the Russian Federation's Schedule of Specific Commitments under the General Agreement on Trade in Services; - An importer or exporter of record must meet its customs and fiscal responsibilities to the Russian Federation, including compliance with TBT, SPS and other requirements; and - The Russian Federation can require an importer of record to provide information on the further disposition of imported products to help assure compliance with Russian Federation requirements relating to distribution and other WTO-consistent measures. <p><u>Requests for Information or Clarifications That Should be Reflected in the Text :</u></p> <p><u>General</u></p> <p>Russian legislation/regulations necessary to implement WTO rules are pending for this section.</p>

Paragraph No.	Comment
	<p>Earlier texts used the term “resident” when describing someone who could get a license to import.</p> <ul style="list-style-type: none"> - Clarify in the text whether one must be a resident to acquire either an activity license, or import or export licenses. If that term is still legally valid for the requirements described in this section, a definition should be provided in the text. <p>The reference in previous versions of WT/ACC/SPEC/RUS/25 to the requirement that there be “a documentary confirmation of deposition of no less than 50 per cent of the charter capital of the firm with the respective bank” has been removed.</p> <ul style="list-style-type: none"> - If this requirement still exists, the text should clarify the scope and application of this requirement for a foreign firm. If the requirement has been abolished, the text should so state. <p>Paragraph 121 : Russia has stated previously that there are only three exceptions to the general rule that engaging in import and/or export operations does not require special permission or an activity license. It appears, however, that in addition to alcohol, pharmaceuticals, and precious stones and metals, importing products with encryption also requires such a license.</p> <ul style="list-style-type: none"> - Provide in the text (or a chart) a comprehensive list of areas, including product coverage, for which an activity license is necessary to acquire import or export licenses, and explain the reasons for the requirement. <p><u>Specific Drafting Suggestions</u></p> <p>Paragraphs 126: This text is inaccurate and should be removed.</p>

Paragraph No.	Comment
128-132	- Alcoholic Beverages
	<p>[AUS]</p> <p>1. We welcome reforms Russia is seeking to undertake in relation to licensing of the import and export of alcoholic beverages. These reforms appear to be still before Russia's Parliament. Once they are passed, we suggest their incorporation into this part of the text. In particular, we would suggest inclusion of information on:</p> <ul style="list-style-type: none"> - the nature of the reforms – i.e. what previous restrictions or procedures have been abolished, what has replaced them in law or administrative procedures, and all necessary information on fees and formalities underpinning the administration of the new form of activity licensing. <p>2. We note that paragraph 131 signals the intention to remove previous restrictions on the volume of imported alcoholic products (paragraph 119) which constituted prohibited quantitative restriction under Article XI of GATT 1994. These include restrictions on the volume of alcohol imported under a single-contract license (in terms of both overall volume of produce sold in Russia, and restrictions on the share of alcohol no more than 15 per cent in content). We seek:</p> <ul style="list-style-type: none"> - clarification in the text as to whether Russian law requires that this restriction be observed, or whether it only provides for the imposition of such a restriction; - inclusion in the text of a reference to existence and eventual removal of these quantitative restrictions.
128-132	<p>[BRA]</p> <p>Paragraph 128 takes note of the concern expressed by some members over the restrictive consequences of the Russian Federation's current activity licensing system for the sale of alcoholic beverages. At the same time, it mentions that the fees charged on the distribution of imported beverages could exceed those applied to the distribution of nationally produced beverages. As this situation may constitute a violation of Article XI and of Article III of GATT 1994, Brazil expects the Russian Federation to proceed with the reform in this system in order to ensure that, upon accession, it does not hamper trade, nor discriminates against imported beverages.</p>
	<p>[SUI]</p> <p>Paragraph 131 and Table 7: paragraph 131 indicates that a draft federal law under examination by the Duma will unify the fee levied for activity licences. This is a welcomed improvement. Could the Russian Federation confirm that this unified fee will replace the previous fees levied ? When do you foresee to implement the new simplified licensing procedure?</p>
	<p>[USA]</p> <p>In addition to the general commitment, the Russian Federation should confirm that it will eliminate the requirement for an activity license to engage in production or distribution as a condition for obtaining an import license for ethyl alcohol.</p> <p>Paragraph 129 : This section states that, in addition to the activity license and the import license : “With regard to exports and imports, an additional license is required issued by the Federal Tax Service.”</p> <ul style="list-style-type: none"> - The text should clarify whether this additional license will continue to be required and provide details on issuance, e.g., responsible authority and requirements for obtaining a license. <p>Please indicate in the text whether it is necessary to have a representative office to request an activity license to import alcohol.</p>

Paragraph No.	Comment
	<p>The text should clarify precisely, in this paragraph, what products (alcoholic beverages and alcohol-containing products) are subject to the requirements 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 and the other legislation described in this section.</p> <p>Paragraph 131 : The text should clarify that an importer currently must have an import activity license in order to request an import license from MEDT. Confirm in the text that after the simplified system has been implemented, there will no longer be a need for an import activity license. As previously noted, we seek elimination of the requirement for an importer to obtain an activity license to produce or distribute alcohol within Russia in order to obtain import licenses from MEDT.</p> <p>Concerning fees: describe in the text the scope, nature, and point of application of the fees for licenses and, as possible, indicate how the elements that provide less favorable treatment to imports will be eliminated.</p> <p>Identify in the text the legislative vehicle for making the proposed changes to the activity licensing requirements for the importation and exportation of alcoholic beverages and alcohol-containing products.</p>
133-140	- Pharmaceuticals
	<p>[AUS]</p> <p>1. In relation to pharmaceutical products, Russia has not demonstrated that in practice the procedures and fees underpinning its system of non-automatic licensing to imports comply with all relevant articles of the Agreement on Import Licensing. In order to clarify the WTO consistency of its regime, we seek inclusion of the following in the text:</p> <ul style="list-style-type: none"> - a list of activities which attract the fee of 1,300 rubles referred to in paragraph 120 concerning "On Licensing of Certain Types of Activities" and how long this type of license is issued for. - information on all fees, formalities, requirements and eligibility requirements for obtaining activity and import licenses. In particular, we request that Russia expand its description of the "uniform procedure" for obtaining a license to import medicines (paragraph 137). <p>2. In the previous draft of the Working Party report (WT/ACC/SPEC/RUS/25/Rev.2), Russia noted that once a company obtained an activity license, it would be eligible for the receipt of import licenses each time it wished to import or export goods subject to licensing. We seek either:</p> <ul style="list-style-type: none"> - clarification in the text as to whether that this requirement remains in force, and an explanation of its justification given importers are also required to obtain activity licenses in this sphere.
	<p>[SUI]</p> <p>Paragraph 137-138 : Our understanding is that Federal Law No. 86 of 22 June 1998 On Medicines is being currently revised. Please provide information on the revision and changes foreseen regarding activity licence. This part of the draft report will need to be revisited once the amendments to the law have been adopted.</p> <p>As the activity license requirement in the case of alcoholic beverages has been simplified so that an activity license will only be required for doing business and not for import/export activities, for which reasons could the Russian Federation not consider to also simplify in the same way the activity license requirements in the case of pharmaceuticals ?</p>

Paragraph No.	Comment
	<p>Paragraph 136 : According to paragraph 136 foreign legal persons are required to open a representative office if they want to import pharmaceuticals in the Russian Federation. Could the Russian Federation clarify why it seems not possible for representative offices to import pharmaceutical as they apparently cannot seek a licence?</p>
	<p>[USA]</p> <p>In addition to the general commitment, the Russian Federation should confirm that it will eliminate the requirement for (1) the establishment of a representative office as a condition for importing pharmaceuticals: and (2) an activity license to engage in production or distribution as a condition for obtaining an import license for pharmaceuticals.</p> <p>Paragraphs 136-137 : As described, it would appear that a foreign firm that is not engaged in the production or distribution of pharmaceuticals is precluded from being the importer of record of such products.</p> <ul style="list-style-type: none"> - The text should reflect Members' views that requiring an importer to obtain an activity license to engage in production or distribution as a condition for obtaining an import license is inconsistent with GATT 1994, and that importation and distribution are not the same. <p>Prior to finalization, this section of the report should describe the changes being made in the Law on Medicine to simplify the current system for meeting requirements to import pharmaceuticals.</p>
141-142	<p>- Precious Stones and Metals</p>
	<p>[AUS]</p> <p>1. We welcome steps Russia has taken to reform aspects of its licensing regime in relation to precious metals and stones. There is additional information which should be reflected in the text of the report in order to indicate Russia's compliance with all relevant WTO provisions. We seek:</p> <ul style="list-style-type: none"> - responses to our comments/questions on Russia's paper, <i>Information on the Liberalization of Trade in Precious Stones and Precious Metals in the Russian Federation</i>, as a basis for developing additional text for this section of the report. <p>2. In paragraph 141, Russia indicates that it is in the process of amending laws to abolish quantitative restrictions for platinum, raw diamonds and permit export of ferrous metals scrap and wastes and "future liberalisation of international trade involving this category of goods". The status of these reforms are unclear. We seek:</p> <ul style="list-style-type: none"> - inclusion in the text of updated information on whether these reforms have been completed, the full details of what they entail and how they will be implemented. <p>3. We note a reference in the section of the report 'Quantitative Export Restrictions' (paragraph 362) on the existence of licensing for exports of natural diamonds and cut diamonds. These licensing requirements, however, are not listed in this section of the report. We seek:</p> <ul style="list-style-type: none"> - inclusion in this section of the report all relevant details of these licensing requirements, and any other licensing requirements on exports of precious metals and stones.

Paragraph No.	Comment
	<p>[AUS] Comments on Russia's paper on "Liberalisation of trade in precious stones and precious metals in the Russian Federation"</p> <p>We welcome Russia's intention to liberalize trade in precious stones and precious metals. This most useful document helps clarify the basis for, and Russia's policy directions in, this area of its foreign trade regime. We have some comments and questions to which we would appreciate responses in writing.</p> <p>General</p> <ul style="list-style-type: none"> - Please indicate the standard acts referred to in the document that have been translated into English and lodged with the Secretariat. - Please lodge with the Secretariat English translations of any standard acts referred to in the document and other legislation requested that have not yet been provided. <p>Item 1</p> <p>It is stated that the Federal Law of 8 August 2001 No.128-FZ "On Licensing of Certain Types of Activities" abolished the activity licensing requirement for trade of precious metals, precious stones and jewelry containing precious metals and precious stones.</p> <ul style="list-style-type: none"> - Please indicate the products (tariff code and description) that were previously subject to activity licensing requirements in respect of trade in precious stones, precious metals and jewelry containing precious metals and precious stones. - What did the activity licensing requirement for these products that was abolished cover? <ul style="list-style-type: none"> - The internal purchase or sale of these products? - Their importation? - Their exportation? - Their internal purchase or sale for subsequent exportation? <p>Their exportation, on the condition that they would be processed in a foreign country and subsequently imported in processed form?</p> <ul style="list-style-type: none"> - What activity licensing requirements remain for these products in respect of internal purchase and sale, importation or exportation? What is the legal basis for any remaining activity licensing? <p>Item 2</p> <p>It is stated that the Decree of the President of the Russian Federation of 21 July 2001 No.742 "On the Procedure of Importation into the Russian Federation and Exportation from the Russian Federation of Precious Metals and Precious Stones" abolished quantitative restrictions and licensing requirements for export of jewelry, articles for production and technical purposes made from precious stones, precious metals in the form of products and articles, natural pearls and coins.</p> <ul style="list-style-type: none"> - Please indicate:

Paragraph No.	Comment
	<ul style="list-style-type: none"> - the products (tariff code and description) that remain subject to quantitative export restrictions and export licensing requirements; - the quantitative export restrictions and export licensing requirements that remain for these products; - the laws and legal acts under which those quantitative export restrictions and export licensing requirements are maintained. <p>Item 3</p> <p>It is stated that, under the Decree of the President of the Russian Federation of 30 November 2002 No.1373 "On Approval of Regulations on Importation to the Russian Federation and Exportation from the Russian Federation of Natural Diamonds and Brilliants":</p> <ul style="list-style-type: none"> - "subjects of production of brilliants" have the possibility of export "and (or) exportation in customs regime" of processed natural diamonds they have by the right of ownership; - "subjects of production of brilliants" at present have the possibility of export "and (or) exportation in customs regime" up to a maximum of the 15% of the cost of natural diamonds obtained by them in regions of mining natural diamonds or in the State depository of precious metals and gemstones (Gokhran); - the licensing of export of brilliants and raw diamonds has been abolished. <ul style="list-style-type: none"> - Please indicate the products (tariff code and description) that are classified as brilliants and natural diamonds. - We would be grateful for clarification of what constitutes a "subject of production of brilliants". Does this cover diamond mining, diamond processing, or both mining and processing? Please indicate how the status of "subject of production of brilliants" is conferred, the legal basis for conferring this status, and the terms and conditions for conferring and maintaining this status. - We would appreciate an explanation of the difference between export and "exportation in customs regime". - Do "subjects of production of brilliants" have the possibility of export "and (or) exportation in customs regime", rather than the right to export, because they are still subject to requirements for export, such as the need to obtain necessary approvals, or to obtain an activity license? If so, please indicate the requirements that need to be met by the intending exporter, the body (or bodies) from which the necessary approvals are obtained, any grounds for refusal, and any other circumstances under which approvals may be refused. - Does the possibility of export "and (or) exportation in customs regime" apply to processed natural diamonds that "subjects of production of brilliants" have by the right of ownership because they own the diamonds but might not be in possession of them, given that there is a requirement to keep them in the State depository of precious metals and gemstones (Gokhran)? Please provide details of the requirement to keep diamonds in the State depository of precious metals and gemstones. - Within what timeframe is the 15% maximum limit on the cost of natural diamonds determined? - Please explain what is meant by the cost of natural diamonds. Is this their market price, their actual cost of production, an arbitrary cost assigned to them, the amount that processors pay for them (however determined), or something else? - Please provide details of the export licensing requirements that were abolished in relation to: who could be issued with an export license; the terms and conditions for being granted an export license; the grounds on which an export license could be refused; and the body (or bodies) which provided approvals and granted the export license. - Does the abolition of the export licensing eliminate all requirements for "subjects of production of brilliants" to obtain approvals from authorities to engage in sale for subsequent internal resale, for sale for subsequent export, or for export? For example, are such approvals still

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	<p>required from Gokhran, the CBR or any other authority for the sale for subsequent internal resale, for sale for subsequent export, or for export? If so, please provide details of approvals requirements that are now applicable in respect of: the terms and conditions granting approvals; the grounds on which approvals could be refused; the bodies involved in granting the required approvals; and the legal basis for the approvals regime.</p> <ul style="list-style-type: none"> - Was exportation previously contingent on further processing in a foreign country and subsequent re-importation of the processed product, and now such a requirement is no longer applied? Please provide details of what has changed in respect of how this requirement works, by whom it is administered and its legal basis. <p>Item 4</p> <p>It is stated that Amendments of 11 November 2003 to Article 5 of the Federal Law of the Russian Federation "On State Secrets" excluded data on extraction, transfer and consumption of precious metals and precious stones from the list of state secret data and simplified the procedure of performing transactions with these valuables and creates conditions for organization of balanced secondary market in Russia.</p> <ul style="list-style-type: none"> - Please indicate how the procedure of performing transactions with precious metals and precious stones was simplified, and what has changed in respect of applicable requirements. - What were the objectives involved in changing the organization of the secondary market in Russia? - We would be grateful details of the planned publication of import and export statistics for precious metals and precious stones. <p>Item 5</p> <p>It is stated that Federal Law of 10 December 2003 No. 173-FZ "On Currency Regulation and Currency Control" excluded precious stones and metals from the list of currency valuables, thereby removing a number of restrictions on the sale of precious metals and precious stones, such as special authorities and functions of services for currency regulation and control, and restrictions on the rights of legal entities with respect to the ownership and disposal of this category of goods.</p> <ul style="list-style-type: none"> - What is the purpose of and legal basis for the "list of currency valuables"? How is the list maintained? - It appears that the presence of a good on the list of currency valuables may subject the good to certain restrictions. We would appreciate details of the following restrictions, including a description of them, an indication of their purpose and details of their legal basis (as they had applied to precious stones and precious metals): <ul style="list-style-type: none"> - special authorities and functions of services for currency regulation and control; - restrictions on the rights of legal entities with respect to the ownership and disposal of this category of goods. <p>Item 8</p> <p>It is stated that the Draft Decree of the President of the Russian Federation "On Amendments and Additions to Regulations on Importation to the Russian Federation and Exportation from the Russian Federation of Precious Metals, Precious Stones and Raw Materials Containing Precious Metals Approved by the Decree of the President of the Russian Federation of 21 June 2001 No.742" envisages the abolition of quantitative restrictions for</p>

Paragraph No.	Comment
	<p>export of non-refined platinum and metals of the platinum group and raw materials containing precious metals, and removes the ban on the export of scrap and waste of precious metals and ores and concentrates of precious metals.</p> <ul style="list-style-type: none"> - Please describe the quantitative export restrictions (including the export bans) that have applied to these products, their purpose and how they are applied? Which bodies apply these restrictions and what is their legal basis? - Please indicate the tariff codes for the products that will be subject to the provisions of the Decree. - We would be grateful for advice of when the Decree will be signed and enter in force? Will all of the quantitative export restrictions (including the export bans) that apply to these products be eliminated upon entry into force of the Decree? <p>Item 9</p> <p>It is stated that the Draft Decree of the President of the Russian Federation "On Amendments and Additions to Regulations on Importation to the Russian Federation and Exportation from the Russian Federation of Natural Diamonds and Brilliants Approved by the Decree of the President of the Russian Federation of 30 November 2002 No. 1373" envisages abolition of quantitative restrictions for export of natural diamonds for mining subjects and diamonds of 10.8 carats and more, if these natural diamonds are obtained by foreign persons from mining subjects at auctions carried out in accordance with the legislation of the Russian Federation.</p> <ul style="list-style-type: none"> - Please define the term "mining subjects". Can foreign persons be "mining subjects"? Please indicate the requirements that need to be met for a person to be a "mining subject", and their legal basis. - Please indicate the tariff codes for the natural diamonds that will be subject to the provisions of the Decree. - Please describe the quantitative export restrictions for the export of natural diamonds, their purpose and how they are applied. What bodies apply these restrictions, and under what laws? - What is the nature of the remaining restriction on foreign persons purchasing diamonds of less than 10.8 carats? What is the rationale and WTO justification for this restriction? What is its legal basis? - What is the rationale and WTO justification for requiring foreign persons to obtain diamonds at auction rather than by purchasing them from "mining subjects", when "mining subjects" will be able to export directly? - Please provide advice on the legislation under which the auctions will be carried out. - We would be grateful for an indication of when will the Decree be signed and enter in force. Will all of the quantitative export restrictions (including the export bans) that apply to these products be eliminated upon entry into force of the Decree? <p>Item 10</p> <p>It is stated that the Draft Federal Law "On amendments and Additions to the Federal Law "On Precious Metals and Precious Stones" (of 26 March 1998 No. 41)" envisages bringing the Federal Law "On precious metals and precious stones" into conformity with the adopted Federal Law "On Currency Regulation and Currency Control", wherein precious metals and precious stones are excluded from the list of currency valuables and do not fall under the currency legislation. It is also stated that amendments and additions to this Law are aimed at the future liberalization of trade in precious metals and precious stones, including the abolition of unjustified restrictions on the sale of precious metals in domestic and foreign markets.</p> <ul style="list-style-type: none"> - Please provide details of plans for the future liberalization of trade in precious metals and precious stones envisaged in the amendments and

Paragraph No.	Comment
	<p>additions to the Federal Law "On Precious Metals and Precious Stones".</p> <ul style="list-style-type: none"> - Please indicate the unjustified restrictions on the sale of precious metals in domestic and foreign markets that are intended to be removed. What is the legal basis for these restrictions? - Please provide advice on when the Draft Federal Law is expected to be enacted. <p>Item 11</p> <p>We would be grateful for clarification as to whether the Draft Decree of the President of the Russian Federation "On Changes to the List of State Secret Data Approved by the Decree of the President of the Russian Federation of 30 November 1995 No. 1203" is designed to give effect to provisions of Federal Law of 11 November 2003 No.153-FZ "On changes to Article 5 of the Law of the Russian Federation "On State Secrets"".</p> <ul style="list-style-type: none"> - We would be grateful for an indication of the specific provisions of the Draft Decree. - Please provide advice on when the Decree will be signed and enter in force.
	<p>[SUI]</p> <p>Paragraph 142 : In the texts provided in June 2004, paragraph 313 ter was dealing with other customs formalities in the case of precious stones and metals and watches in precious metals, i.e. only certain customs checkpoints could carry out customs operations for these goods. As paragraph 142 deals with customs formalities it should be moved to the relevant section of this report. In addition, watches and parts of watches in precious metals should be added to the list of products subject to restrictions if it is still the case as we understood from the information given in July that the legislation is being revised.</p> <p>A marker should be put on this section as a new law is pending. This section will need to be revised once the law has been adopted. We would appreciate to receive additional information on the state of adoption of the legislation.</p> <p>A paragraph containing the commitments should be added at the end of this section.</p>
	<p>[USA]</p> <p>Paragraph 141 : Describe in the text the status of legislative amendments in development to eliminate import restrictions on trade in these goods.</p> <p>Paragraph 142 : The text of this section confirms that trade must be conducted through specified customs check points. Describe in the text the requirement for "customs registration" and distinguish it from corporate registration and registration for an activity license.</p> <p>Paragraph 146 : This paragraph as currently drafted repeats some major themes underlying Members' concerns and the issues that need to be addressed in a commitment paragraph relating to authorization/registration requirements for importing and/or exporting goods, which is one aspect of the conditions imposed on imported or exported goods. It should remain as written.</p>
143-147	<p>- Other licensing requirements</p>
	<p>[AUS]</p> <p>1. We propose that the fifth sentence of paragraph 146 be amended to read: "Without prejudice to other relevant provisions of the WTO Agreement, the Russian Federation should ensure any laws and regulations relating to the right to trade in goods would not restrict imports or exports 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."</p>

Paragraph No.	Comment
	2. We look forward to the inclusion in the report of a commitment paragraph embracing all proposed obligations in paragraph 146, subject to our proposed amendment to the fifth sentence of paragraph 146.
	[SUI] Paragraph 146 : As already mentioned in July and in our written comments the last sentence of this paragraph should not be limited to alcoholic beverages. We request again that the mention of pharmaceutical products be added at the end of paragraph 146.
	- Encryption Devices
	[USA] In addition to the general commitment, the Russian Federation should confirm that an activity license to engage in production or distribution will not be a requirement for obtaining an import license for these products.
148-347	1. Import Regulations
148-160	Customs Regulations and Customs Tariffs
	[ARG] Paragraph 156 The text of this section needs to be updated to facilitate specific additional information, so as to clarify that Russia will comply with corresponding WTO provisions: <ol style="list-style-type: none"> 1) whether the State Customs Committee (SCC) and the regional offices publish or offer information about customs regulations to importers and exporters; 2) the measures that the Russian Federation adopts or intends to adopt in order to guarantee that importers and exporters have access to all relevant information in light of the fact that, as the last part of paragraph 156 indicates, there are acts or parts thereof which are not published. Russia does not respond to the question in paragraph 156, whether it will comply with art. 13 of the Agreement on the Implementation of Article VII of GATT 94.
	[BRA] With reference to paragraph 151, Brazil joins members who expressed concerns regarding possible inconsistencies in the application of customs laws and regulations by regional customs authorities and expects that the Russian Federation ensure the uniform application these laws and regulations throughout its territory. Furthermore, Brazil expresses concern about the use of "secret orders" (administrative orders issued by the SCC and its regional offices, whose contents are not publicized to traders), mentioned in paragraph 158. Brazil is of the view that the Russian authorities should restrict their use purely to operational and investigative procedures.
	[EC] <u>Descriptive part</u> We consider that some clarification work needs to be done in this section, in particular: <ul style="list-style-type: none"> - The intentions of the Russian Federation as regards ratification of Kyoto and revised Kyoto conventions. Whilst it declares to apply the general principles, we are concerned that in some areas the legislation seems to deviate from Kyoto. - Completion of the areas for which the Customs Code provides for the possibility for implementing decisions or regulatory acts. - Guarantee system in paragraph 156 (on guarantee system allowing an importer to withdraw goods from customs pending final determination of

Paragraph No.	Comment
	<p>the customs value).</p> <ul style="list-style-type: none"> - Secret orders for "performing operational and investigation activities" (paragraph 158) - Clarification of circumstances under which customs escort (especially for internal transit within Russia) and customs storage is taking place. This could be included either in this section or in another section if considered more appropriate <p><u>Commitment</u> Section may require commitment.</p>
	<p>[JPN]</p> <ol style="list-style-type: none"> 1. Paragraph 149 simply states the requests by the Members concerning a description of changes to customs regulations, etc. So long as the Russian side provides its response to these requests in another paragraph, paragraph 149 may not be needed. 2. In paragraph 150, it provides that "only provisions of the Customs Code were not directly applicable". Also in paragraph 152, it provides that "the vast majority of provisions of the Customs Code of the Russian Federation were of direct application". We would like to seek clarification from the Russian Federation on what are things which belong to "not directly applicable" and how such things will be implemented. These clarified points should be included in paragraph 150 or 152. 3. In paragraphs 154 and 155, there are descriptions concerning customs payments under the Customs Code. Also in paragraph 154, customs procedures and formalities under the Customs Code are concisely mentioned. The following elements concerning customs procedures and formalities which are of Japan's interest should be duly included in the present section (If appropriate, it may be included in the section of "Other Customs Formalities"): <ul style="list-style-type: none"> (a) Observance of three working days for examination of a customs declaration; (b) Filing a customs declaration 15 days before foreign goods arrival; (c) Special simplified customs formalities for persons having been pursuing foreign economic activities at least three years and not having committed administrative offences; (d) Extension of the maximum period of bonded storage of goods 4. In paragraph 158, there is an explanation on "secret orders". The legal basis in the Customs Code concerning secret orders should be stated in the Report. And the Russian Federation's commitment to the effect that secret orders will in no way hinder implementation of the Customs Code and other relevant legislation should also be included. 5. The contents of the Customs Code are provided in several paragraphs such as paragraphs 150, 152 and 154. However, for the sake of clarity and for ease of reading, we should consider consolidating the main elements contained in the Customs Code into one paragraph according to the following classification: <ul style="list-style-type: none"> (a) Non-discrimination, ensuring due process; (b) Simplification of procedures, avoidance of unnecessary trade restriction; (c) Transparency and Openness; (d) Harmonization with international measures;

Paragraph No.	Comment
	<p>6. We understand that the following elements are introduced under the Customs Code, in particular for the purpose of simplifying custom system and procedures and establishing a user-friendly customs system:</p> <ul style="list-style-type: none"> (a) Observance of three working days for examination of a customs declaration; (b) Filing a customs declaration 15 days before foreign goods arrival; (c) Special simplified customs formalities for persons having been pursuing foreign economic activities at least three years and not having committed administrative offences (d) Extension of the maximum period of bonded storage of goods <p>7. A major challenge for the Russian Federation's customs procedures and formalities is to ensure a unified application of these procedures and formalities to all the customs territories of the Russian Federation (e.g. avoidance of arbitral interpretation and application of laws and regulations by local authorities). In this connection, we would like to seek clarification from the Russian Federation on the concrete measures by the Government and legal mechanism to achieve the above. And the clarified points should be duly reflected in the Report.</p>
	<p>[SUI] Paragraph 149 : The Customs Code has been enacted in 2004 according to our understanding and not in 2003.</p> <p>Paragraph 156 : Several members noted that the legislation currently applied does not appear to fully implement article 13 of agreement on Customs Valuation which provides for a guarantee system allowing an importer to withdraw goods from customs pending final determination of the customs value. Have the recently adopted legislation addressed this issue ? This section of the report should also be completed with additional information on the regulation on customs fees once it has been adopted. Please also provide an English translation of his regulation to the working party.</p>
	<p>[USA] <u>Elements of a Commitment:</u></p> <ul style="list-style-type: none"> - Confirm that following accession to the WTO the Russian Federation will apply MFN tariff treatment, in accordance with its rights and obligations under WTO agreement. - Confirm that no customs ruling will be enforced unless it is published. - Pending: A more detailed commitment will be suggested if clarity is not forthcoming on the nature of “unpublished administrative orders” and if we do not receive sufficient guarantees that all “regulations, orders, rules, instructions, dispositions and administrative decrees” are published where traders can become acquainted with them. <p>Paragraphs 155-156 : This section states that there are customs rulings that are not published or circulated. These include “regulations, orders, rules, instructions, dispositions and administrative decrees.”</p> <ul style="list-style-type: none"> - Clarify in the text explicitly the nature of the Customs rulings that are not required to be published. - The text should explain why these customs rulings should not be included in the general requirement for publication, why they are not considered “normative,” how they are “recommendatory,” and why it matters that they are used only internally within the customs.

Paragraph No.	Comment
161-168	Ordinary Customs Duties
	<p>[AUS]</p> <p>1. We note reference in paragraph 162 to products subject to ad valorem tariffs or combined or specific tariffs with ad valorem equivalents (AVEs) in the 0-30 per cent range. We seek:</p> <ul style="list-style-type: none"> - expansion of this paragraph to include out-of-quota rates for tariff quota products and the AVEs of the combined and specific tariffs levied on a number of agricultural products. - unit import prices in respect of MFN imports for the products subject to combined or specific duties for each of the calendar years 2002, 2003 and 2004. This will enable a full analysis of AVEs in this context. <p>2. We recommend the last sentence of paragraph 168 be amended as follows:</p> <ul style="list-style-type: none"> x. The representative of the Russian Federation said that upon accession the Russian Federation would extend unconditional most favoured nation treatment in respect to all measures, rules and formalities applied in relation to imported and exported goods, including in respect of commitments in its Schedule of Concessions and Commitments for Goods, and that it would depart from unconditional most favoured treatment only as allowed under the WTO and through the observance of WTO rules governing such departures. The Working Party took note of these <u>commitments</u>. <p>3. We note the omission of a reference in this section to the world price-contingent tariffs for imported raw cane sugar introduced on 1 January 2004. We propose the following text for inclusion in the report:</p> <ul style="list-style-type: none"> x. A member of the Working Party noted that world price-contingent rates of import duty for raw cane sugar of HS subheading 1701.11 had replaced the tariff rate quota on 1 January 2004, and that this was a measure of a kind required to be eliminated in the Uruguay Round and prohibited under Article 4 of the Agriculture Agreement. The member concerned called for its early elimination. x. The representative of the Russian Federation said that the world price-contingent rates of import duty for raw cane sugar would be eliminated prior to the date of accession, and that this measure and any other of a kind required to be eliminated in the Uruguay Round and prohibited under Article 4 of the Agriculture Agreement would not be applied to any product after the date of accession. The Working Party took note of these <u>commitments</u>.
	<p>[BRA]</p> <p>According to paragraph 162, from a total of 11,032 tariff lines, 1,630 are subject to compound (mixed) rates, ranging from meat and butter to watches and cars, and 92 subject to specific rates, including chocolate and strong alcoholic beverages.</p> <p>Brazil notes its expectation that compound (mixed) and specific rates be replaced by <i>ad valorem</i> tariffs upon Russian Federation's accession, a measure that would increase transparency and reduce distortions in trade.</p> <p>Additionally, Brazil suggests that the Russian Federation make available an English version of its customs service site (www.customs.ru/ru/), as a means of facilitating members' access to information on the Russian customs system.</p>

Paragraph No.	Comment
	<p>Finally, Brazil requests, for transparency purposes, that a clear explanation on the functioning of world-price contingent tariffs for imported raw cane sugar, a system introduced by Resolution 72, of 29 November 2003, and which entered into force on 1 January, 2004 , be included in the Draft Report.</p> <p>At the same time, Brazil requests a commitment from the Russian Federation to eliminate this system prior to the date of accession of the Russian Federation to the WTO, since it is not in conformity with Article 4.2 of the Agreement on Agriculture.</p>
	<p>[EC] <u>Descriptive part</u></p> <p>Some factual information to be completed, notably products subject to specific duties exceeding a duty equivalent to 30%.</p>
	<p>[JPN]</p> <ol style="list-style-type: none"> 1. In paragraph 162, items subject to compound tariff rates are provided. We would like to seek clarification from the Russian Federation on the concrete time frame toward abolishing these compound tariff rates. 2. In paragraph 165, the method of calculating combined duties is provided. We would like to seek clarification from the Russian Federation on whether this method is consistent with the WTO agreement. 3. In paragraph 168, it provides that "He added that following accession to the WTO the Russian Federation would apply MFN treatment in accordance with its rights and obligations under the WTO agreement". Such statement by the Russian Federation should be replaced by the Russian Federation's commitment on this matter. Therefore, language should be amended accordingly.
	<p>[SUI]</p> <p>Paragraph 165 : An example with figures added in this paragraph would help to understand how the calculation is made.</p>
	<p>[USA]</p> <p>Requests for Information or Clarifications That Should be Reflected in the Text:</p> <p>Negotiations of Russia's tariff schedule are taking place in HS1996, while Russia's applied rates are currently in HS 2002.</p> <p>- At this juncture in the negotiations, it would be helpful to advise in the text the status of preparation of a concordance for conversion of the results of the negotiations prior to finalization.</p> <p>Paragraph 162 : Include in the text HS numbers for the products for which applied duties exceed 30 percent, as identified in paragraph 162:</p> <ul style="list-style-type: none"> -sugar; -ethyl alcohol and beer; -used truck tractors older than 7 years; -used trucks older than 7 years; -used passenger motor cars older than 7 years; -furniture [for] which cost is lower than 1.8 euro per 1 kg.

Paragraph No.	Comment
169-185	Tariff Quotas
	<p>[ARG] Paragraphs 169-185:</p> <p>A. <u>Distribution of TRQs</u>: Argentina reserves its right to further comment on this issue, as its bilateral negotiation in market access on goods have not concluded. At this stage Argentina expresses its concern on this issue, as it established a discriminatory distribution of the Russian market in bovine and poultry meats.</p> <p>B. <u>Administration of Tariff Rate Quotas</u></p> <p>1. Paragraph 177 indicates that foreign-owned firms established as Russian legal entities could participate in TRQ distribution. Russia also confirms that there were no other legal requirements to participate in TRQ auctions that could favor local production. This paragraph, however, does not provide information about the requisites that foreign companies have to fulfil to establish themselves as legal entities, and, therefore, have the right to participate in auctions. For the sake of the clarity and transparency, please provide complete information about the conditions which are required to become legal entities.</p> <p>2. General comments about quota administration and auctioning: Russia must ensure that, through this system, exporters' incomes do not decrease in favor of the Russian Federation or that the system does not become a trade restriction. Also, Argentina emphasizes that there should be a termination date of the TRQs during or before 2010, rather than a review.</p> <p>3. In particular, the auctioning method for TRQ is inconsistent with following WTO provisions:</p> <p>a) Agreement on Agriculture: The auctioning fee is a "similar border measure" to those referred in article 4.2. of the Agreement, because it operates in a systemic way to increase the effective price of importation to the equivalent price of out-of-quota imports. Therefore, the auctioning fee is inconsistent with this article.</p> <p>b) Of GATT 94:</p> <ul style="list-style-type: none"> (i) Article I:1, because it would discriminate in respect of "like products" of different origin due to different levels of the auctioning charge. (ii) Article II:1(b), because the auctioning fee, which is in connection of the importation, will violate the bound ceilings of tariffs and erode the value of the concession. As an example, the starting auctioning fee informed under Working Paper Nr. 39¹, is equivalent to 102, 42,60 and 93 Euros per tonne in for the pork, beef and poultry TRQs, respectively. This starting price represents an additional and substantive cost. (iii) Article II:2(c), because the auctioning fee, due to its nature, can not be "commensurate with the cost of the services rendered". (iv) Article III:2, because imported products can not be subject to internal charges of any kind in excess of those applied to domestic products. (v) Article III:4, because imported products would be accorded a less than favorable treatment than domestic products. (vi) Article VIII:1(a), because the auctioning fee, due to its nature, can not be "limited to the approximate cost of services rendered". The auctioning fee would also represent an "indirect protection to domestic producers or a taxation of imports" inconsistent with this article. <p>c) Agreement on Import Licensing. Taking into account that auctioning implies a non-automatic import licensing, it would be inconsistent with</p>

¹ : Job No. 6280.4, 23/9/2004. Table in page 4.

Paragraph No.	Comment
	<p>article 3.2. of this Agreement, as the auctioning fee would have a more trade-restrictive or –distortive effect additional to those caused by the imposition of the restriction (in this case the TRQ).</p> <p>4. Could Russia inform the auctioning fees obtained in the auction carried out on 11 October, 2004, as announced in the Working paper No. 39 (see above).</p> <p>5. Paragraph 163: The average of imports made to obtain export licenses should be based on the 2002-2004 period (more recent).</p>
	<p>[AUS]</p> <p>1. We refer to the last sentence of paragraph 170, and propose that new paragraph be included.</p> <p>170A. A member of the Working Party said that it considered the elimination of the preferential tariff rate quota on raw cane sugar mentioned in paragraph 170 on 31 December 2003 to be a positive step given that this measure had represented an increase in the level of import restriction on previous levels. The member however considered that a backward step had been taken on 1 January 2004 by the replacement of the tariff quota not with a single rate of import duty but a world-price contingent import tariff, which was a measure of a kind required to be eliminated in the Uruguay Round and prohibited under Article 4.2 of the Agriculture Agreement.</p> <p>2. We request paragraph 169 also include a reference to meeting the provisions of Articles I, VIII and X of GATT 1994 (in addition to II, XI and XIII).</p> <p>3. In relation to paragraph 172, we seek reference in the text to the existence of minimum auction prices in these arrangements and factual details on them. Such minimum auction prices serve as a minimum import price by placing a floor under the auction price, and therefore violate the prohibition on such measures under Article 4.2 of the Agriculture Agreement. We also ask that the minimum auction prices applied to tariff rate quotas be notified to Table 4 as minimum import prices.</p> <p>4. We note exclusion from this draft of our concerns about the auctioning of tariff rate quotas. We request inclusion of the following text after paragraph 182 (to be followed by commitment language in a subsequent paragraph in this subsection indicating how Russia will abide by its WTO obligations in respect of tariff quota allocation and other administration):</p> <p>182A. A member of the Working Party noted that tariff quota under the preferential tariff rate quota on raw cane sugar mentioned in paragraph 170 had been allocated by auctioning, and observed that the auctioning of quota had raised the internal price of imported raw cane sugar to such a level that a number of importers had found it uncompetitive to resell or use the amounts they had purchased. The member concerned called upon the Russian Federation to refrain from auctioning of tariff quota in the future in order to guarantee conditions of market access under the quota that are no more restrictive than the in-quota rate.</p> <p>182B. The member raised further concerns over the proposed use of auctioning as a method of allocating tariff quota after accession. In the view of this member, auction prices represented additional imposts on amounts imported under the quota that would be inconsistent with tariff commitments established under Article II of GATT 1994 and Article 4 of the Agriculture Agreement where the total imposts on those amounts were raised to levels that exceed the in-quota bound rate. The member was also of the view that the auction prices represented minimum import prices to purchasers of products that enter under the quota where they placed a floor under the prices payable by those purchasers for</p>

Paragraph No.	Comment
	<p>imports and accordingly afforded additional protection to domestic production, inconsistently with Article XI of GATT 1994 and Article 4 of the Agriculture Agreement. Moreover, where a starting price was used under a normal auctioning method, the starting price would itself represent a minimum import price and accordingly would be inconsistent with Article XI of GATT 1994 and Article 4 of the Agriculture Agreement. In addition, the terms and conditions of importation of a product subject to auctioning could not be fully known in advance and could therefore not meet appropriate standards of transparency and predictability under Article X of GATT 1994 and Article 4 of the Agriculture Agreement. The member called upon the Russian Federation to allocate tariff quota consistently with WTO obligations from the date of accession.</p> <p>5. In relation to paragraph 175, we seek clarification in the text of Russia's intentions in relation to providing a legal basis for the eligibility of most favoured nation suppliers to receive quota and tariff quota allocations.</p> <p>6. At this stage, we request the inclusion of a paragraph on commitments in relation to the following matters:</p> <ul style="list-style-type: none"> - The introduction of a process for consultation with trading partners, importers and exporters prior to the amendment of tariff quota regulations, including public notification of intended arrangements and adequate opportunity for comments to be made before final decisions are taken and implemented on such changes; - The coverage of this consultation process for consultations to be held in the event that changes are required to tariff quota allocations owing to abnormal events affecting trade, such as outbreaks of BSE; - The implementation by Russia of an efficient and timely system for reallocation of unused quota allocations through a transparent process that will be completed in August each year enabling sufficient time for shipments to be arranged; - The publication by Russia on a regular basis of detailed information on allocations and usage of tariff quota so that importers and exporters can monitor market access opportunities on an ongoing basis throughout each year; - That Russia will refrain from allocating tariff quota through auctioning. <p>7. Further commitments will be sought subject to explanations provided in response to questions raised in relation to the report and in plurilateral sessions on tariff-rate quotas. We reserve our rights in relation to these issues.</p>
169-185	<p>[BRA]</p> <p>As regards paragraph 169, Brazil reiterates its concerns regarding the Russian Federation's intention to have recourse to TRQs — particularly for beef, pork and poultry —, a step backward from trade liberalization.</p> <p>In this respect, Brazil notes that key products of its export interest are currently subject to the restrictions posed by the existence of Tariff-Rate Quotas (TRQs) and is deeply concerned, as far as the compatibility with the GATT 1994 and the Agreement on Agriculture are concerned, with the rationale to be adopted by the Russia Federation to allocate quotas, for the period 2003-2009, along country-specific criteria.</p> <p>Brazil's position is that a tariffs-only regime is much preferable than TRQs as it allows for the market to select suppliers that provide the best combination of price, quality, and stable offer of goods. However, the creation of TRQs on a MFN basis could be considered as an option in certain cases and for a transitional period. As a result, the allocation of TRQs on a country specific basis, as proposed by the Russia party, cannot be accepted, since it freezes market situations and does not take into consideration productivity differentials, comparative advantages and other dynamic factors. Moreover, it creates a discrimination that contradicts the very principles of the WTO.</p>

Paragraph No.	Comment
	<p>[CAN]</p> <p><u>General Comments:</u></p> <p>Before April of 2003, Russia's imports of meat products were subject to tariff only. In Canada's view, the TRQs introduced by Russia in 2003 should be only an interim measure in order to provide a period of stabilization for domestic meat production sectors. Canada seeks firm commitment from the Russia Federation to terminate its TRQs by 1 January, 2009.</p> <p><u>Specific Problems:</u></p> <p>Russia's current TRQs and its administration have created quota reserves only for certain Members. This practice has reduced pre-TRQ access for other Members and eliminated equal opportunity to all Members to supply their products. Russia's country reserves in TRQs are discriminatory - a clear departure from the MFN principle.</p> <p><u>Possible Solutions and Drafting Proposals:</u></p> <p>On termination of TRQs: we need Russia to confirm that the TRQs on meat products will be replaced by a single tariff on MFN basis for all Members by 1 January, 2009.</p> <p>Before the termination of the interim TRQs, Canada seeks that Russia's TRQ administration addresses the following specific concerns and makes commitments:</p> <p><u>Russia's Tariff Quota Administration: Specific Questions</u></p> <p>Noting that Russia's tariff quota administration methods should be consistent with the GATT 1994 and the WTO Agreement on Import Licensing Procedures, as well as the general principles of transparency and predictability, Canada wishes to submit the following questions.</p> <ol style="list-style-type: none"> 1. The remaining 10 % of annual meat quotas was reported to be auctioned in mid-October 2004. October is too late in a quota year for this distribution as it provides insufficient time for long distance suppliers to be able to compete effectively for these opportunities, as contracting, preparing and transporting shipments takes at least six weeks. For 2005 and subsequent quota years could Russia move the date of auctioning (10%) up to June so that all exporters have a fair and adequate opportunity to compete and fill the quotas obtained? 2. We understand that in the 2004 quota year Russia allocated quota shares in the beginning of the year and importers who received quota shares have until the end of 2004 to use their allocations. In these circumstances and throughout the quota year, how does Russia keep track of how much of the quota allocations have actually been used, and how much remains unused by an importer during the quota year 2004. What provisions are made to provide transparency on a week to week basis on actual quota fill during the quota period, so that exporters know the extent to which the quota is filled or remains unfilled? 3. What provisions are in place to address the situation of importers who received a quota allocation but can not use their allocation (for any reason)? Are there provisions for importers to return without penalty allocations that they will not be able to use? If allocations are unused by a certain

Paragraph No.	Comment
	<p>point in the year (e.g. 2 or 3 months before the end of the quota year), are there any provisions to reassign and reallocate these shares, so that the market access opportunities they represent can be used?</p> <p>4. Are there penalties in place to address the situation where importers have received an allocation but will not or cannot use a certain threshold level by a certain point in the year? If an importer is assigned access and is unable to use it, are there consequences for the size of their allocation in the next period? What are the specific consequences of under-utilization under Russia's policies?</p> <p>5. What provision is made for new entrants, both in the initial allocations given to importers and in any reassignment of unfilled or returned portions during the quota period?</p>
	<p>[EC] <u>Descriptive part</u></p> <p>This section will need to be reviewed upon completion of bilateral negotiations.</p> <p>EU recalls the conclusion of the chair during the last meeting of the Working Party that "and discriminated against those members that did not provide export subsidies" can be deleted (paragraph 174).</p>
	<p>[JPN]</p> <p>1. At the end of paragraph 172, reference is made to the possibility of changes in administrative methods. We need to seek clarification from the Russian Federation on which way such administrative methods could be changed. And the clarified points should be included in this paragraph.</p> <p>2. We understand that the Russian side is under discussions with the Members concerned on the special measures for high-quality beef under which such beef will be excluded from TRQ regime. In light of ensuring transparency concerning the special measures, the detail on such measure should be included in the present section.</p> <p>3. At the end of paragraph 173, it provides that "the representative of the Russian Federation said that his Government intended to consider conversion of the safeguard quota into TRQ." We would like to seek clarification from the Russian Federation on the concrete plans for such conversion (e.g. timing, methods, etc) and they need to be reflected in the Report.</p>
	<p>[USA] <u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p> <p>Russian legislation/regulations necessary to implement WTO rules are pending for this section, e.g. the legal basis for application of the beef and pork TRQs and poultry quotas for 2005. These should be provided to the Working Party for review.</p> <p>The quantitative data (on quota amounts and allocations) in paragraphs 171 and 173 needs to be removed and placed in a summary table that can be easily updated (data for 2005 will also need to be added).</p> <p>Information should be included on the Government Resolution allowing importers to reapply for import licenses in the event of a livestock disease outbreak in the supplying country. We reserve our right to provide comments in writing on this legislation.</p>

Paragraph No.	Comment
	<p><u>Specific Drafting Suggestions:</u></p> <p>Paragraph 171 : The information on the legislative basis for application of the TRQs should be updated and the information on quota amounts and allocations moved to a table which includes the TRQ parameters for 2005, as follows:</p> <p style="padding-left: 40px;">171. With regard to meat, he noted that in 2003-2004 a two-level tariff had been applied to imports of beef (HS 0201 and 0202) and pork (HS 0203) since April 2003. The legal bases for this measure were Government Resolutions No.49 and No.50 of 23 January 2003 and No. 721, 722, 723 of 29 November 2003 <u>[Update references to include most recent government resolutions. Delete rest of paragraph and reformat information on quota amounts and allocations to a table. Provide TRQ parameters for 2005 in that table.]</u></p> <p>Paragraph 172 :</p> <p style="padding-left: 40px;">172. . . . For pork and beef, 90 per cent of the import volume was distributed by granting licenses to historical importers based on their representative imports over last three years (2000-2002) with a portion (10 per cent) reserved for new entrants. <u>[Update this information for 2005, as the shares have changed.]</u> These</p> <p>Paragraph 179 :</p> <p style="padding-left: 40px;">179. . . . The importation of poultry, as well as beef and pork also required <u>an import</u> permit from the Federal Veterinary Service. <u>Of the import licenses issued by MEDT, 90% of import licenses</u> were granted to historical importers based on average imports from 2000- 2002, with a 10% portion reserved for new entrants. <u>[Update this information for 2005.]</u></p> <p>Paragraph 180 : The entire paragraph should be updated with 2005 information.</p> <p>Paragraph 183 : The statement “In response, the representative of the Russian Federation stated that importers would be required to present an import license from MEDT as a precondition to import. This requirement also applied for imports of products that would be used for further processing or into retail sale.” does not respond to the concerns outlined in paragraph 182.</p> <p><u>Elements of a Commitment:</u></p> <p>To administer TRQs in a manner that is consistent with GATT Articles XI and XIII; the Agreement on Import Licensing Procedures; and the Agreement on Agriculture.</p>
186-189	Tariff Exemptions
	<p>[AUS]</p> <p>Paragraph 187 on tariff exemptions suggests that access to a quota or tariff quota allocation in Russia depends on eligibility for a tariff exemption. We request the following paragraphs be included after paragraph 187:</p>

Paragraph No.	Comment
	<p>187A. In response to questions from a member of the Working Party, the representative of the Russian Federation said that the Federal Law No. 5003-1 "On Customs Tariff" did not provide for the allocation of quota or tariff quota to foreign most favoured nation suppliers and that there was no legal basis in the Russian Federation for making such allocations. Under provisions of Article [...] of the Law, quota or tariff quota could only be allocated to [...]. He confirmed that the Federal Law "On Amending the Federal Law No. 5003-1 of 28 May 2003 "On Customs Tariff" " when enacted would contain provisions that would allow for the allocation of quota and tariff quota to most favoured nation suppliers. In response to a further question from this member, the representative of the Russian Federation said that the Federal Law "On Amending the Federal Law No. 5003-1 of 28 May 2003 "On Customs Tariff" " which entered into force on [...] did not include provisions that would allow for the allocation of quota and tariff quota to foreign most favoured nation suppliers. The member concerned asked how provision for the allocation of quota or tariff quota to foreign most favoured nation suppliers would be made in the legislation of the Russian Federation, given that provision for this was not included in the Federal Law "On Amending the Federal Law No. 5003-1 of 28 May 2003 "On Customs Tariff" ". The representative of the Russian Federation replied [...].</p> <p>187B. The representative of the Russian Federation said that from the date of accession the Russian Federation would maintain a continuous legal basis for the eligibility of most favoured nation suppliers to receive quota and tariff quota allocations. The Working Party took note of these <u>commitments</u>.</p>
	<p>[CAN] <u>General Comments:</u></p> <p>The section only refers to some of the products facing preferential tariff exemptions and contains no commitment language.</p> <p><u>Specific Problems:</u></p> <ul style="list-style-type: none"> - It is Canada's view that Russia's future WTO obligations clearly require Russia to provide MFN treatment and waive the 10% to 30% import duty being applied to certain imports of space equipment. - There are indications of discriminatory tariff exemptions for aircraft and Russia is being asked to confirm that they have been terminated. - There is no commitment language obliging Russia to bring its tariff exemptions into conformity with WTO obligations. <p><u>Possible Solutions and Drafting Proposals:</u></p> <ul style="list-style-type: none"> - Addition of the following commitment language: <ul style="list-style-type: none"> - The representative of the Russian Federation confirmed that no later than the date of accession any tariff reductions or exemptions for goods, including aerospace equipment [...] would be granted on an MFN basis. The Working Party took note of this commitment.

Paragraph No.	Comment
	<p>[EC] <u>Descriptive part</u></p> <p>Replies to questions concerning tariff exemptions (paragraph 189) will eventually need to be included in this section.</p> <p><u>Commitment</u> Pending discussions on the substance of exemptions.</p>
	<p>[JPN]</p> <p>In paragraph 187, industrial and other equipments related foreign investment are listed as items not subject to customs duties. We would like to seek clarification from the Russian Federation on the detailed contents of such industrial and other equipments. Also, in paragraph 189, it provides that "these types of exemption were discussed in the sections on "TRIMs" and "Industrial Subsidies" of this Draft Report." We need, first of all, to clarify the detail of what are envisaged by such "types", and then need to examine whether they relate to TRIMs or Industrial Subsidies. In case there are some items in which no relation with TRIMs or Industrial Subsidies is established, the WTO consistency concerning exemption from customs duties on such items should be included in the present section.</p>
	<p>[USA] <u>Elements of a Commitment:</u></p> <p>Pending: Possible submission of commitment language concerning tariff exemptions, depending upon the situation of exemptions addressed in other sections of the report (e.g., TRIMs, FTZs, and subsidies).</p>
190-192	Other Duties and Charges
	<p>[AUS]</p> <p>The proposed commitment language in paragraph 192 does not provide clear enough recognition of the disciplines on ODCs under Article II:1(b) of GATT. We suggest the proposed commitments be amended (and simplified) to read:</p> <p style="padding-left: 40px;">192. The representative of the Russian Federation said that the Russian Federation would from the date of accession to the WTO not apply other duties and charges in the meaning of Article II:1(b) of GATT 1994 and would bind such other duties and charges at zero in relation to all products included in its Schedule of Concessions and Commitments for Goods. The Working Party took note of these commitments.</p>
	<p>[BRA]</p> <p>According to paragraph 190 of the Working Party Draft Report, "the representative of the Russian Federation stated that the Russian Federation had not applied any duties and charges (ODCs) within the meaning of Article II:1(b) of the GATT 1994". The following paragraph mentions that "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 and to undertake a commitment that it would not apply such measures except in conformity with WTO obligations". Brazil joins those members in that request.</p>

Paragraph No.	Comment
	<p>[EC] <u>Descriptive part</u> No comments</p> <p><u>Commitment</u> We expect that the brackets in paragraph 192 will eventually be lifted.</p>
	<p>[JPN] There are terms "Authority to apply such measures" in paragraph 190. Although we believe that the Russian Federation has no plan of introducing ODCs in the future, we would like to seek clarification from the Russian Federation on this point. If the Russian Federation has no plan to do so in the future, the language, "and that any such charges applied to imports after accession would be in accordance with WTO provisions" referred to in paragraph 192 should be deleted as they may prejudice the possibility of introducing ODCs in the future.</p>
	<p>[USA] <u>Elements of a Commitment:</u></p> <ul style="list-style-type: none"> - The commitment language in paragraph 192 should be finalized.
<p>193-210 <i>193-197</i></p>	<p>Fees and Charges for Services Rendered and Other Fees <i>Fees and Charges for Services Rendered</i></p>
	<p>[BRA] According to Article VIII of the GATT 1994, all fees and charges of whatever character (other than import and export duties) imposed on or in connection with importation or exportation shall be limited in amount to the approximate cost of services rendered. Brazil, therefore, expects the Russian Federation to bring its customs fees regime into full conformity with Article VIII prior to accession.</p>
	<p>[CAN] <u>General Comments:</u></p> <p>This section fails to adequately describe how Russia will ensure that its customs fees meet its GATT Article VIII obligation to limit them to the approximate cost of the service being provided. However, it is encouraging that Russia is now making the general statement that it will meet this objective.</p> <p><u>Specific Problems:</u></p> <ul style="list-style-type: none"> - Russia has indicated that its draft federal law on amendments to the Customs Code of the Russian federation will replace the current 15% ad valorem customs fee with customs fees that equal the approximate cost of service, as required by GATT Article VIII. However, it has not provided the detailed fee structure that is needed to verify that it will meet this important obligation. Given that the new legislation will come into effect on 1 January, 2005 this is problematic. - There is no commitment language obliging Russia to meet its Article VIII obligations. <p><u>Possible Solutions and Drafting Proposals:</u></p>

Paragraph No.	Comment
	<ul style="list-style-type: none"> - It is up to Russia to provide a detailed fee schedule to Members and describe it in this section of the Working Party Report. - Once Members have received the schedule they will need to assess the need for an improved description, and determine what commitment language will be needed to mandate improvements to it.
	<p>[JPN]</p> <p>1. In paragraph 194, it provides that "fees for customs clearance were applied temporarily on an ad valorem basis". We would like to seek clarification from the Russian Federation on what basis those items subject to specific duties as well as items subject to combined duties will be calculated.</p> <p>2. We would like to seek clarification from the Russian Federation on how the Russian Federation ensures that charges for customs clearance, charges for escort of goods and charges for the storage of goods respectively be set at appropriate levels (In paragraph 194, it merely provides that "fees for customs clearance were applied "temporarily" on an ad valorem basis"). In addition to this, we need to clarify the procedures for submitting a claim with respect to the levels of these charges by importers.</p>
	<p>[SUI]</p> <p>Paragraph 194 and Table 10 : We are still of the view that the ad valorem fees for customs charge and additional customs charge for customs clearance are not consistent with Article VIII GATT as they are not limited to the approximate cost of services rendered. In which cases the customs charge and the additional customs charge are levied ? As these fees are applied temporarily on an ad valorem basis when do you foresee to replace these ad valorem fees ? Will it be the case with the new amendments to the customs code (Paragraph 195)?</p> <p>Paragraph 195 : Have the implementing regulations defining the precise level of fees and procedures been adopted yet? This paragraph will need to be updated once the relevant legislation has been adopted.</p>
198-210	Other Fees
	<p>[ARG]</p> <p>Paragraphs 198- 210: Please respond to the questions which have previously been formulated concerning state taxes and clarify what measures Russia adopts to guarantee that they are perceived in a non -discriminatory manner and that they are compatible with WTO rules.</p>
	<p>[JPN]</p> <p>1. In the present section, clarification is provided concerning port fees, state duties and consular fees in response to the questions posed by the Members. However, first of all, the detail of "other fees" should be provided in a comprehensive manner in paragraph 198. We would like to seek clarification from the Russian Federation on why "state duties" are classified as fees.</p> <p>2. In paragraph 205, reference is made to consular fees by quoting the Vienna Convention on Consular Relations. As consular fees to be referred to in this section should be of relevance only in relation to import/export, paragraph 205 should be deleted.</p>
	<p>[SUI]</p> <p>Paragraph 200 and Table 12 : Table 12 still contains State duties that are not consistent with Article VIII GATT as three of them are ad valorem, i.e. a percentage of the value of the agreement or of the amount of the obligation or of accepted monetary sum and value of securities. When do you foresee to modify these ad valorem fees in a WTO consistent manner? This section of the report will need to be revisited.</p> <p>Paragraph 204 in relation to paragraph 200 and Table 12 : How do you reconcile the first sentence of paragraph 204 stating for instance that attestation of agency agreements do not require any payments such as State duty and Table 12 that foresees the payment of a state duty in such a case?</p>

Paragraph No.	Comment
193-210	Fees and Charges for Services Rendered and Other Fees
	<p>[EC] <u>Descriptive part:</u> The EU remains concerned about the amount of fees included in this and other sections. Further clarifications are needed to make an assessment about the WTO compatibility of the different fees.</p> <p><i>"fees and charges for services rendered"</i></p> <ul style="list-style-type: none"> - <u>customs clearance</u> : we note that customs clearance is normally free of charge, unless an unusual service is rendered (e.g. after normal working hours). As far as the fee as such is concerned, we note that the draft amendment to the customs tariff law makes clear that the customs clearance fee has to be related to the service rendered. At the same time, we note that criteria for this fee will be stipulated in implementing legislation. We would appreciate receiving a draft of these implementing criteria. - <u>escort fee</u>: we note that the draft law does not specify that this fee must be commensurate to the cost of the service rendered. It establishes an escort fee per km and transport unit. We would like to receive further information on the basis for these calculations to assess whether these are commensurate to the service rendered. (see also previous comments on escort as such) - <u>storage fee</u> : we note that the draft law does not specify this fee must be commensurate to the cost of the service rendered and instead establishes a fixed fee for storage. We would like to receive further information/calculations indicating how this fee is commensurate to the service rendered. <p><i>"other fees"</i></p> <ul style="list-style-type: none"> - Further work is needed to assess if the fees are commensurate to the cost of the service rendered. <p>We note that a number of fees included in other sections, in particular a fee for activity licence (insofar as they affect import and export operations), import licence and PSI, will also need to reflect the cost of the service rendered. The same goes for fees in connection with transit operations.</p> <p><u>Commitment</u></p> <p>The commitment for fees needs to include the following elements:</p> <ul style="list-style-type: none"> - That all fees and charges which are imposed in connection with import and export operations shall be commensurate to the service rendered (Art VIII GATT). The fees and charges to which this discipline is applicable may need specification to the extent doubt has in the examination of the descriptive part (examination not yet completed). Fees include those mentioned in the sections "fees and charges for services rendered" and "other fees". In addition, a commitment on fees should also include fees for import licences (currently this section does not include a commitment on fees), registration rights/activity licence (currently this section includes a commitment on fees and taxes) and PSI (currently this section includes compliance with Art VIII). The latter three fees could either be included in the section "fees and charges" or in the corresponding sections. - Transparency: publication of fees and submission of information upon request of Members.

Paragraph No.	Comment
	<p>[USA] <u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p> <p>Russian legislation/regulations necessary to implement WTO rules are pending for this section.</p> <p>Update in the text the status of the legislation that will implement the new customs fees, i.e., where are the amendments to the Customs Code in the process of legislative enactment?</p> <p>Please describe Russia's new fees for customs escort and for warehousing in the text of the draft WP report.</p> <p>Paragraph 199 : Last sentence: indicate in the text which government body collects the port charges.</p> <p>Paragraph 200 : Clarify in the text that state duties are required to be paid for authenticating customs documents and other mandatory customs functions, as indicated later in this section. The text should be corrected to reflect that import/export documents and customs appeals are subject to state duties, e.g., that state duties don't apply to the act of import or export except for the applications described in the text.</p> <p>Paragraph 204 : Indicate in the text whether the customs fee of 300 Rubles for the import/export of securities is applied to any other economic sectors.</p> <p>Paragraph 207 : There should be response in the text to the concerns noted in paragraph 206 regarding the application of state duties to customs documents, appeals, or other requirements for import/export.</p> <p><u>Specific Drafting Suggestions:</u></p> <p>Paragraph 194 : Insert a statement in this paragraph describing the previous regime, e.g., "These fees included The Customs Clearance Fee was an ad valorem fee, and not based on the cost of the service performed."</p> <p><u>Elements of a Commitment:</u></p> <ul style="list-style-type: none"> - The text in paragraph 209 is an adequate basis for building a commitment for this section. Inclusion of additional elements may be necessary depending on review of the legislation as enacted with respect to the issues raised.
211-235	Application of Internal Taxes on Imports
	<p>[BRA] Brazil shares the concerns expressed by some members regarding the deduction of charges for excise taxes collected on imports from Belarus to the Russian Federation, which could constitute a violation of Article I of the GATT 1994 by providing better treatment to imports from Belarus than from other suppliers. Brazil seeks further information on Russia Federation's practice in that regard.</p>
	<p>[EC] <u>Descriptive section:</u> Some further clarification is needed in this section, including on cars, aircraft, pharmaceuticals, and deviations from the application of the MFN</p>

Paragraph No.	Comment
	<p>principle in this area.</p> <p><u>Commitment</u></p> <p>Specific points to be addressed in a commitment include:</p> <ul style="list-style-type: none"> - A confirmation that the Russian Federation will not apply to imported alcoholic products any system of excise taxation that would be discriminatory, either in terms of national treatment, or in terms of the MFN obligation. This also explains the reference to regional destination. - Confirmation that if changes are to be made to the system of taxation and controls of alcoholic products, the government will avoid creating market conditions that would be less favourable to imported products than to domestic products.
	<p>[MOL]</p> <p>The commitment, regarding the application of the indirect taxes in conformity with the principles of the country of destination, without any exceptions for the energy resources, represents one of the most important concern of the Republic of Moldova.</p> <p>In this regard, we would like to propose that the provisions of the paragraph 235 of the chapter Policies affecting trade in goods include the following commitment, which has been previously proposed by our Mission:</p> <p>"The representative of the Russian Federation confirmed that, from the date of accession, the Russian Federation would apply export regulations, in particular export duties and VAT, on a non-discriminatory basis <i>vis-à-vis</i> to all WTO members and goods, without any exceptions. The Working Party took note of this commitment."</p>
	<p>[USA]</p> <p><u>Requests for Information or Clarifications That Should be Reflected in the Text :</u></p> <p>Russian legislation/regulations necessary to implement WTO rules (e.g., ratification of the Agreement with Belarus, revision of the tax regime for used autos) are pending for this section.</p> <p>Confirm in the text that with implementation of this agreement, there are no longer any circumstances under which Russia collects indirect taxes on imports based on the country of origin principle.</p>
211-223	<p style="text-align: center;">- Excise Taxes</p>
	<p>[JPN]</p> <p>In paragraph 215, the issue of the WTO consistency is raised by the Members concerning its taxation policy <i>vis-à-vis</i> Belarus. We would like to know the Russian Federation's views on how to ensure the WTO consistency concerning excise taxes dealt with in its bilateral agreement with Belarus. And there need a commitment from the Russian Federation in this regard.</p>
	<p>[SUI]</p> <p>Paragraph 215 : During the last Working Party with Belarus (30 September 2004), Belarus indicated that it signed an agreement with the Russian Federation to switch to the destination principle from 1 January 2005 for VAT. Please confirm that it is the case and that the Russian Federation will also switch to the destination principle and that it will also apply in the case of excise duties.</p> <p>Paragraph 223 and Table 14 : how the ad valorem part of combined rate of excise tax for cigarettes, i.e. 65 rubbles per 1,000 pieces plus 8% can be equal to 1%?</p>

Paragraph No.	Comment
	<p>[USA]</p> <p>Paragraphs 214-5: Please confirm in the text:</p> <ul style="list-style-type: none"> -that Russia and Belarus signed an Agreement in September entitled «<u>Concerning the main rules in collecting indirect taxes in sphere of export, import, execution of work and service</u>» that provides for the collection of indirect taxes in trade (e.g., VAT and excise taxes) between the two countries on basis of the country of destination principle; -that the Agreement will go into effect from the date of its ratification by both parties; -that Russia's legal authority to apply its indirect taxes vis-à-vis Belarus on this principal is contained in recent «Amendments to the second Part of Tax Code of Russian Federation and the other legislative acts of Russian Federation» dated 18 August 2004; and -that it entered into effect on 1 January 2005. <p>Paragraph 217 : This paragraph, especially the last sentence, should be expanded and made more precise, i.e., detailing specifically how the excise tax on autos, based on engine size, could be applied to ensure that it does not discriminate. It should also deal with the special tax on used autos imported by persons.</p>
224-235	- Value-Added Tax
	<p>[AUS]</p> <p>We seek the inclusion of the following paragraphs in the draft report after proposed paragraph 233.</p> <p>x. In response to questions from a member, the representative of the Russian Federation confirmed that there was a temporary provision for VAT exemptions for enterprises in the agricultural sector in relation to products used for making payments in kind to their employees in lieu of monetary payments for part or all of the labour income owed. [...] provided the legal basis for such VAT exemptions. The tax authorities allowed such exemptions where three conditions were fulfilled: 70 per cent or more of the producer's own income was generated from the sale of the agricultural products of its own manufacture; the producer was unable to fund through its own accounts the payment of labor income owed to its employees; and the producer paid such labour income in kind only to its employees and only with agricultural products of its own manufacture. These VAT exemptions were widely used in the 1990s but their usage had since declined to negligible levels.</p> <p>x. In response to further questions from this member, the representative of the Russian Federation said that the temporary provision for VAT exemptions under [...] would be eliminated by the date of accession. From the date of accession, the tax authorities of the Russian Federation would also ensure that all payments in kind would be treated on an identical basis to monetary payments in the determination of VAT liabilities for all enterprises both in the agricultural sector and all other sectors of the economy. The Working Party took note of these <u>commitments</u>.</p>

Paragraph No.	Comment
	<p>[CAN]</p> <p><u>General Comments:</u></p> <p>While there is a useful description of the discriminatory VAT treatment that a number of products are facing, none is included of the discriminatory treatment of space equipment. In Canada's opinion, the basis of acceptable commitment language is included in brackets in paragraph 234 of the current draft of the Working Party Report.</p> <p><u>Specific Problems:</u></p> <ul style="list-style-type: none"> - While there is a detailed examination of other examples of goods facing discriminatory application of the Russian VAT (e.g. agricultural products, fish, used cars, medical equipment and pharmaceuticals) there is no description of the discriminatory treatment of space equipment from countries which do not have space treaties with Russia. - There is no agreed text committing Russia to provide MFN and national treatment vis-à-vis the application of the VAT and new bracketed commitment text has been introduced in paragraph 235 which, while it repeats the general obligations, is not linked to the specific examples of discrimination contained in this section of the Working Party Report. <p><u>Possible Solutions and Drafting Proposals:</u></p> <ul style="list-style-type: none"> - Insertion of the following "some Members text" describing the discriminatory VAT treatment of space equipment: <ul style="list-style-type: none"> - Some Members noted that space equipment originating in some countries face, at a minimum, a 20% VAT while those from other countries enjoy an exemption from the VAT. They indicated that this is inconsistent with the MFN provisions of GATT Article I and sought the immediate application of equivalent VAT treatment to all space equipment regardless of its country of origin. - Adoption of the following bracketed, commitment text currently in paragraph 234 as the commitment paragraph with the addition of: the italicized text; and a reference to a paragraph describing the discriminatory treatment of space equipment (i.e. the draft paragraph above): <ul style="list-style-type: none"> - 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 [...] in compliance with Articles I and III of the GATT 1994, in a non-discriminatory manner to imports regardless of the country of origin and to domestically produced goods, without exceptions, regardless of the regional destination of goods. <i>The Working Party took note of this commitment.</i>
	<p>[JPN]</p> <ol style="list-style-type: none"> 1. As set out at the end of paragraph 227, we would like to seek clarification from the Russian Federation on its views on the WTO consistency concerning the taxation policy <i>vis-à-vis</i> Belarus. 2. In response to the questions posed by Members concerning discriminatory application of VAT in imports of used cars as set out in paragraph 230, in paragraph 233 it provided that "Government Resolution No.718 equalized customs payments made by legal and natural persons in the importation of motor cars into the customs territories of the Russian Federation". It is not clear whether VAT is included in "customs payments" and also whether used cars are included in "motor cars". The above statement in paragraph 233 is insufficient as an answer to the questions referred to in paragraph 230 and therefore need to be further clarified. 3. At present, the method of payment of VAT in the Russian Federation is that VAT corresponding to the value of customs clearance is required to

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	<p>be paid at the time of customs clearance and claim for refunding the amount of the VAT paid is submitted after sale of goods, calculating the VAT equivalent to the amount of value added (Paragraph 2 of Article 327 of the Customs Code). We would like to seek clarification from the Russian Federation on technical reasons why the Russian Federation will not be able to let VAT be paid in a lump sum after sale of goods as the system practiced in Europe.</p>
	<p>[SUI] Paragraph 230 and 233 : As indicated in paragraph 230 we would like to know on which basis and for which reason does the Russian Federation apply a higher (20%) VAT for clinical trials than for pharmaceuticals (10%) in the absence of a special permit from the Ministry of Health? We also ask the Russian Federation to consider VAT exemption for clinical trials as they are not intended for resale and as the Tax Code allows for exemptions. This section (Application of internal taxes on imports) of the report needs to be updated to reflect the change from the country of origin principle to the country of destination principle in the case of Belarus.</p>
	<p>[USA] Paragraph 225 : If Russia confirms the adoption of the destination principle for indirect taxation of imports from Belarus, this paragraph should be updated to indicate that, as of 1 January 2005, the VAT will be applied in a WTO-consistent fashion vis-à-vis Belarus as well as the CIS.</p> <p>Mention should also be made of the recent decision of Russia to apply the destination principle for application of the VAT on exports to the CIS.</p> <p>Paragraph 233 : We question the explanations given concerning taxation of autos and pharmaceuticals, and require further clarification of the taxation issues that Members have raised.</p> <p><u>Elements of a Commitment:</u></p> <p>Paragraph 234 : The commitment text in paragraph 234 is an adequate basis for building a commitment for this section.</p>
236-245	Quantitative Import Restrictions, including Prohibitions and Quotas
	<p>[ARG] Paragraph 236 states that import restrictions could be applied pursuant to Article 32 of Federal Law No 164-FZ and that these quotas could be justifiable under Articles XX and XXI of the GATT 1994. Please revise this section to add an explanation for this statement.</p> <p>Paragraphs 237 and 238: These paragraphs indicate that Russia could apply, in exceptional cases, quantitative restrictions on agricultural or fishery products in accordance with Article XI:2 of the GATT 1994. The paragraphs seem to refer to paragraph 2-c of that article. However, quantitative restrictions of article XI:2-C of GATT 94 have been derogated by article 4.2. of the Agreement on Agriculture, which superseded Article XI:2-C of GATT 94.</p> <p>First, Argentina would like to know whether import restrictions under Article XI:2 (c) of GATT 94 have been or are being applied.</p> <p>Second, Argentina would like to point out that according to the General Interpretative Note to Annex 1 A of the WTO Multilateral Agreements on Trade in Goods, "in the event of conflict between a provision of the General Agreement on Tariffs and Trade 1994 and the provision of another Agreement in Annex 1 A to the Agreements establishing the WTO, the provision of the other agreement shall prevail to the extent of the conflict"</p>

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	<p>Therefore, Argentina requests that Russia commits itself to comply with article 4.2. of the Agreement on Agriculture as from its accession date and removes any measures that could be inconsistent with that article.</p>
	<p>[AUS]</p> <p>1. In paragraph 236, Russia notes import restrictions could be applied pursuant to Article 32 of Federal Law 164-FZ and in accordance with federal laws and international treaties of the Russian Federation as "measures not carrying an economic character and affecting trade in goods." It further notes that such measures were justifiable under Articles XX and XXI of GATT 1994. We agree with the concerns raised in paragraph 239 on this issue and seek the following:</p> <ul style="list-style-type: none"> - clarification in paragraph 236 of the definition of "not carrying an economic character and affecting foreign trade in goods". - information on the types of measures justifiable under this law, and whether the law specifies the appropriate intent of such measures (eg to protect public morals, protect human, animal or plant life etc) - clarification of the consistency of this law with provisions of the chapeau to Article XX, which requires that measures (including import restrictions) are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade. - adoption of commitment language to effect of that outlined in paragraph 239. <p>2. We note the absence in this section of a reference to quantitative restrictions allowable under Article 24 of Federal Law No. 164-FZ, which are referred to in paragraph 250 on Import Licensing. We seek:</p> <ul style="list-style-type: none"> - inclusion of text in this section relating to this provision, including a full explanation of the nature of these restrictions, their WTO justification and how they are applied. <p>3. We note references in paragraph 240-241 to legal provisions for the application of quantitative restrictions on the importation of alcohol (eg restrictions on distilled imports to no more than 10 per cent of the Russian market, and a further restriction within this quota that at least 60 per cent of imports contain 15 per cent alcohol content or less). We note this provision still exists in law and recommend:</p> <ul style="list-style-type: none"> - adoption of commitment language for the removal of these provisions from Russian law. <p>4. We note reference to draft legislation in the State Duma entitled "On Amending the Federal Law On State Regulation of Production and Turnover of Ethyl Alcohol, Alcoholic and Alcohol-containing Products". We seek:</p> <ul style="list-style-type: none"> - inclusion in the text of more recent information on these reforms following the eventual approval of these amendments.
	<p>[BRA]</p> <p>Regarding the issue of quantitative import restrictions, including prohibitions and quotas, Brazil requests further clarification on how Federal Law N.º 164-FZ, of 12 December 2003, would be consistent with GATT 1994, particularly with Articles XX and XXI.</p> <p>In particular, Brazil seeks: 1) an explanation on the parameters to be followed by the Russian Federation for applying import restrictions pursuant to Article 32 of Federal Law N.º 164-FZ and in accordance with federal laws and international treaties of the Russian Federation, as "measures not carrying</p>

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	<p>an economic character and affecting foreign trade in goods"; and 2) clarification on how those measures can be justifiable under Articles XX and XXI of the GATT 1994.</p>
	<p>[CAN] <u>General Comments:</u></p> <p>Like all Members, Russia should be in compliance of Article 4.2 of Agreement on Agriculture by eliminating prohibitions and quotas at the date of accession.</p> <p><u>Specific Problems:</u></p> <p>The current quota for poultry in Russia has a prohibition above the annual quota limit. Russia has referred Article XI:2 of the GATT as a justification for this quantitative restrictions. It should be noted that this article had been superseded in the Uruguay Round by Article 4:2 of Agreement on Agriculture.</p> <p><u>Possible Solutions and Drafting Proposals:</u></p> <p>Before the termination of quota for poultry, we need Russia to confirm replacing the current prohibition above the annual quota limit with a single out-of quota tariff rate for poultry.</p> <p>More importantly, quota for poultry were introduced as an emergency safeguard action in May 2003. The duration of the poultry safeguard measure were set for three years. Consequently, it is expected that Russia will confirm that the quota restrictions be replaced by a single tariff rate for all Members on a MFN basis in May of 2006.</p>
	<p>[EC] <u>Descriptive part:</u></p> <ul style="list-style-type: none"> - We understand that Article 32 of the Foreign Trade Activity Law is intended to cover Article XX GATT, whilst Art 21 of that law intends to cover exceptions provided for in Art XI GATT. We would like to see a clarification that both Articles are not to be applied beyond the scope provided for in the GATT. - We welcome confirmation that the legislative provision providing for a QR for alcohol is withdrawn (paragraph 243). - We note that a reply to paragraph 244 (on possible introduction of a State monopoly) is missing. This paragraph (together with a reply) could probably be moved to the STE section. We expect a commitment for this point (see hereafter) <p><u>Commitment</u></p> <p>The commitment language for QRs is currently included at the end of the section on import licences, paragraph 270. Whether it remains there or is moved to the section on QRs, specific additions will be necessary:</p> <ul style="list-style-type: none"> - Confirmation that the exceptions provided for in the Foreign trade activity will be applied in strict conformity with Article XI and XX GATT. - Confirmation that amendments to Federal Law 171-FZ will be in place by WTO entry, including the elimination of quantitative restrictions to export and import pursuant to Article 13 of that law and that the government does not have the intention to introduce any quantitative restrictions on alcoholic beverages or ethyl alcohol in the future, unless allowed under the WTO Agreement.

Paragraph No.	Comment
	<p>- Confirmation that in the event of introducing a monopoly in the area of alcohol the Russian Federation will observe provisions of GATT 1994, in particular, Articles I and III.</p>
	<p>[JPN]</p> <p>1. In paragraph 236, there is an explanation on import restriction as measures not carrying an economic character and affecting foreign trade in goods under Article 32 of Federal Law No.164-FZ. Also in paragraph 237, there is an explanation on import restriction on agricultural or fishery products under Article 21 of the said Law. We would like to seek clarification from the Russian Federation on whether there are some other subjects to which measures of import restriction are applicable under the said Law.</p> <p>2. In response to the question posed by a Member in paragraph 239, there should be a clear and concrete commitment therein by the Russian side in the same paragraph.</p> <p>3. In paragraph 245, there is a description on introduction of safeguard measures in the form of an import quota. This should be explained in the section of "Anti-dumping, countervailing and safeguard measures" including explanations on its treatment after the accession to the WTO as well as its WTO consistency.</p>
	<p>[USA]</p> <p><u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p> <p>Russian legislation/regulations necessary to implement WTO rules are pending for this section.</p> <p>Paragraph 236 :</p> <ul style="list-style-type: none"> - The text should include, at the outset, a comprehensive list, by HS number, of products currently subject to such measures. - The last two sentences of this paragraph are unclear and describe a rather sweeping mandate to use quantitative restrictions. - The text should clarify whether the reference to international treaties means that Russia will not apply such measures if they are inconsistent with WTO provisions (note: see paragraph 239). <p>Paragraph 237 :</p> <ul style="list-style-type: none"> - The text should elaborate on the process by which the Russian Federation will determine the exceptional and/or special cases in which quantitative restrictions may be applied to agricultural and fisheries products under FZ-164. Is this process outlined in the law or in separate regulations? The intent of the measures should be described. - This paragraph refers to imposition of measures in compliance with Article XI:2 of the GATT. We note that the provisions of the Agriculture Agreement have superceded Article XI:2 and that any measures must comply with the Agriculture Agreement. <p>Paragraph 238 :</p> <ul style="list-style-type: none"> - The text should be redrafted to clarify the substantive basis or justifications for application of the authorized measures. What procedures would the Government use to apply QRs without an MEDT recommendation? Please clarify the reasons and criteria Russia would use. <p>Paragraph 243 :</p> <ul style="list-style-type: none"> - The text should be updated to describe the status of efforts to amend Law FZ-171 and the “automatic import licensing” system that will be introduced. <p><u>Elements of a Commitment:</u></p> <p>The report should be structured so that the commitment applicable for Import Licensing Systems is applied to this section as well.</p>

Paragraph No.	Comment
246-271	Import Licensing Systems
	<p>[AUS]</p> <p>1. We note reference in paragraph 248 to a draft Government Resolution "On the Procedure for Licensing Export and Import of Goods (work, services) in the Russian Federation". We further note that the draft would reduce the documents required and terms for issuing the import licenses. We seek:</p> <ul style="list-style-type: none"> - further details in the text on what the Government Resolution will provide for. <p>2. We note that the Russian Federation has provided justifications for controls under GATT Article XX and XXI. We seek:</p> <ul style="list-style-type: none"> - further information on how import licensing requirements are justified under these articles, and how they are relevant to the achievement of these objectives. <p>3. In paragraph 250, Russia states that licensing would also be established when introducing temporary quantitative restrictions (in accordance with Article 24 of Federal Law 164-FZ) on certain types of goods. We seek:</p> <ul style="list-style-type: none"> - further information on the types of temporary quantitative restrictions envisaged and the goods they were likely to be applied to. <p>4. We note that in document WT/ACC/SPEC/RUS/25/Rev.3, raw cane sugar of HS subheading 1701.11 has not been included in the list of products subject to automatic import licensing in Table 16(b). We recall however that raw cane sugar of HS subheading 1701.11 had been included in the list of products subject to automatic import licensing appended to the Consolidated Texts in the Working Document of 28 June 2004 circulated to all members of the Working Party, and we would like to pick up the constructive discussion on this measure. We seek the insertion of paragraphs on automatic import licensing, to follow the discussion on non-automatic import licensing and precede the general commitment paragraph 270 on quantitative import restrictions and import licensing:</p> <p>269A. A member of the Working Party asked what products were subject to automatic import licensing and how the requirements of Articles 1 and 2 of the Agreement on Import Licensing Procedures were met. The representative of the Russian Federation stated that all products subject to automatic import licensing were listed in Table [16(b)]. All legal and natural persons seeking to import those products were equally eligible to apply for and obtain such licenses. License applications could be submitted on any working day prior to the customs clearance of the goods. Appropriately completed applications were approved in all cases and in a period not exceeding three working days. There were no reasons for refusing a license and no circumstances under which a license could be refused.</p> <p>269B. The member commended the Russian Federation for the standard of conformity achieved in relation to those aspects of its system and requested an explanation of the circumstances surrounding and the rationale for the introduction of the automatic import licensing requirement for raw cane sugar of HS subheading 1701.11. The representative of the Russian Federation said that this requirement had been introduced to monitor imports of this product from 1 January 2004 under the world price-contingent rates of import duty which had replaced the tariff rate quota on that date. The member concerned noted that the world price-contingent rates of import duty for this product were a measure of a kind required to be eliminated in the Uruguay Round, were prohibited under Article 4.2 of the Agriculture Agreement and could not be maintained or applied after accession. This member considered it appropriate that, upon the elimination of the world price-contingent rates of import duty</p>

Paragraph No.	Comment
	<p>prior to the date of accession, the automatic import licensing requirement for raw cane sugar of HS subheading 1701.11 used to monitor that measure also be eliminated. The member also noted that, given the circumstances surrounding and the rationale for the introduction of this requirement, the use of automatic import licensing to monitor imports of this product but not competing products which also affected the Russian Federation's domestic market for sugar discriminated against the products of members which exported raw cane sugar, and called upon the Russian Federation to not apply such a requirement to this product for monitoring purposes unless the same requirement was also applied to competing products.</p> <p>269C. The representative of the Russian Federation confirmed that from the date of accession automatic import licensing would be used only in conformity with the provisions of Articles 1 and 2 of the Agreement on Import Licensing Procedures and all other relevant provisions of the WTO, including other applicable provisions of the Agreement on Import Licensing Procedures and those of Article I:1 of GATT 1994. Automatic import licensing requirements would not be maintained unless the circumstances which gave rise to their introduction prevailed and as long as their underlying administrative purposes could not be achieved in a more appropriate way. The automatic import licensing requirement for raw cane sugar of HS subheading 1701.11 would be eliminated upon the elimination of the world price-contingent rates of import duty prior to the date of accession and not reapplied to this product for monitoring purposes unless all other products falling to HS headings 17.01 and 17.02 imported into the Russian Federation from all sources were subject to the same automatic import licensing requirement. The Working Party took note of these <u>commitments</u>.</p> <p>270. The representative of the Russian Federation <i>also</i> confirmed that the Russian Federation would <i>The Working Party took note of these <u>commitments</u>.</i></p>
[BRA]	<p>As paragraph 250 states, "According to the Article 24 of Federal Law N.º 164-FZ, licensing was also required in the event of temporary quantitative restrictions on imports of certain types of goods". Brazil requests clarification on which would be those temporary quantitative restrictions and to which goods they would apply.</p>
[EC]	<p><u>Descriptive part:</u> Pending issues in this section include:</p> <ul style="list-style-type: none"> - Completion of the general examination of import licensing: draft implementing legislation pending - Change of the import licensing system for ICT products: we welcome Russia's intentions as regards facilitation of trade in ICT products, and note that further discussions will be necessary after submission of draft legislation distinguishing between sensitive and non-sensitive encryption products. We consider the Wassenaar agreement to contain a useful basis for making such a distinction. - Clarification on paragraph 261, in particular what happens when the quantity shipped is larger than that listed in the contract. <p><u>Commitment</u> Commitment will need to include:</p> <ul style="list-style-type: none"> - A general confirmation of the relevant GATT articles and the Agreement on import licensing - Specific commitments as regards the elimination of non-automatic licences upon accession for "non-sensitive" ICT products, alcoholic beverages (including a confirmation of simplified procedures), - The current commitment proposed by Members does not include reference to Art VIII GATT for fees imposed for import licences. A

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	<p>commitment will need to be added either in this section or in the section fees and charges. We would like to see specification that for alcoholic beverages that any discriminatory fee between imported and domestic products in relation to licensing procedures will be eliminated upon accession.</p>
	<p>[JPN]</p> <ol style="list-style-type: none"> 1. In paragraph 248, it provides that the Government is working on a draft Government Resolution "On the Procedure for Licensing Export and Import of Goods in the Russian Federation". Under this draft Resolution, there are three types of licenses; one time, general and exclusive. Clarification is required as to the difference among and the purposes of these licenses, etc. We also need to seek clarification from the Russian Federation on how the procedures for renewing one time license will be improved. 2. In paragraph 249, it provides that a draft Government Resolution concerning monitoring of export and import of certain types of goods would be prepared. Since the detail of the draft Resolution is not set out in the paragraph, we would like to seek clarification from the Russian Federation on its detail and would like to obtain confirmation by the Russian side that such monitoring will not be NTB. 3. In paragraph 250, it provides that licenses are required for the purpose of ensuring the protection of physical or legal person's property and State or municipal property. We would like to seek clarification from the Russian Federation on the meaning of "ensuring the protection of physical or legal person's property and State or municipal property". 4. In paragraph 252, the Russian Federation does not seem to provide a sufficient answer to the questions concerning non-automatic licenses, etc. posed by the Members in paragraph 250. Therefore more detailed answers should be provided in that paragraph. 5. The Russian commitments referred to in the first sentence of paragraph 270, in the first and second sentences of paragraph 271 seem to be covering wide ranging areas or be rather focusing on different issues. Therefore, language could be modified so as to focus on commitment relating to import license issues.
	<p>[SUI]</p> <p>General comment : We very much welcome the new presentation of this section which is much clearer than the previous version. However, the text does still not make a clear distinction between the requirements for automatic and non-automatic licenses.</p> <p>Paragraph 247 : it would be useful to specify for how long and how many times the licence can be requested. It would also be better to specify that it is in the case of non-automatic import licences.</p> <p>Paragraph 248 : Please explain in detail what is an exclusive license? What is the difference with the one-time and the general licences? Will the fee charged for issuing a license under the "draft government resolution on the procedure for licensing export and import of goods" still be the same as in Order no 363 ? What is the fee charged in the case of an exclusive license? Is it a flat fee? How much?</p> <p>Paragraph 249 : indicates that a draft government resolution will be prepared on the procedure to monitor export and import certain types of goods. This paragraph should indicate that these licenses will be automatic. How are the goods subject to this monitoring selected? How often will the list be revised? Please indicate where the list is available.</p> <p>Paragraph 250 : Which are the goods considered as "sensitive"? How many goods will be on the list ? Please provide the list of these goods with the indication of HS codes and a full description. Are these goods the same as those listed in tables 16a?</p> <p>We are still of the view that the licensing requirements for pharmaceuticals are burdensome, for instance the obligation to re-register periodically (paragraph 259). We encourage the Russian Federation to simplify its requirements in the case of pharmaceutical products and hope that the new draft law on foreign trade and import/export licensing will put the Russian legislation in conformity with WTO rules.</p> <p>Paragraph 262 and 264: what has been undertaken to address the inconsistency of the ad valorem fee (0.05% of the contract value) charged for issuing permits and preliminary to import pharmaceutical products? Has this fee been eliminated yet? Please also explain the rationale for requesting a</p>

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	<p>preliminary import permit for pharmaceuticals and how it is consistent with the import licensing agreement (Article 1.6 : Application procedures shall be as simple as possible)? What is the duration of such a preliminary permit?</p> <p>Paragraph 263 : several information in this paragraph relate to activity licences and should be moved to the relevant section of this Working Party report, i.e. the following sentences should be moved to the section "registration requirements for import/export operations : "<i>They asked the Russian Federation to confirm that activity licences would be made available to all registered companies (domestic or foreign), which satisfied government regulatory criteria. They noted that this could 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.</i>"</p> <p>As the current law no 86 on medicines is inconsistent with the new draft laws on foreign trade and import/export licensing which steps have been undertaken to amend or repeal this law to ensure that it will be consistent with WTO rules by the date of accession ? Could the Russian Federation give some information on the amendments foreseen in the new draft in the case of pharmaceutical products ?</p>
	<p>[USA]</p> <p><u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p> <p>Russian legislation/regulations necessary to implement WTO rules are pending for this section.</p> <p>More information is needed on the content and status of the new Government Resolution on licensing, pursuant to FZ-164. In particular, information is needed on provisions relating to licensing used to administer tariff rate quotas.</p> <p>More information is needed on Russia's intentions on use of Article 26 to establish additional state trading enterprises, e.g., for alcohol.</p> <p>For products containing encryption devices or technology, Russia justifies its discretionary licensing regime on national security grounds. We question whether there are national security issues involved in commercially traded electronic and other high technology products.</p> <p>Russia should elaborate on this issue, indicating how it intends to limit the scope of the discretionary licensing requirement to avoid interference with commercially traded imports.</p> <p><u>Specific Drafting Suggestions:</u></p> <p>This section should be revised to ensure that the distinction between activity licensing and import licensing is clear, and that the information provided on import licensing is comprehensive.</p> <p>For each of the items subject to import licensing listed, the text should note:</p> <ul style="list-style-type: none"> - If an activity license is required and the activity that is licensed, e.g., production, distribution, etc.; - If an import contract must be provided; - If fees are charged, including the special .05 percent fee for pharmaceutical licensing; and - If a fee has been eliminated, please provide confirmation that the fee is no longer in effect and is no longer being applied.

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	<p><u>Elements of a Commitment:</u></p> <p>Paragraph 270 : The commitment text in paragraph 270 is an adequate basis for building a commitment for both this section and for Import Quantitative Restrictions.</p> <p>We seek an additional commitment that Russia will develop a narrow positive list of products incorporating encryption devices or technology for which import licensing is required, and that the list will not include commercial products.</p>
272-291	Customs Valuation
	<p>[ARG]</p> <p>Paragraph 277: "Special technique"</p> <p>Would the delegation of Russia further revise the text of this section in order to incorporate more details about the "special technique" of customs valuation used with respect to the valuation of certain imported products? Having checked documents WT/ACC/RUS/28, WT/ACC/RUS/33 and WT/ACC/SPEC/RUS/25/Rev.3, it remains unclear what this "special technique" consists of, how it is applied and whether the Federation of Russia intends to continue using it in the future.</p>
	<p>[AUS]</p> <p>Paragraph 285 refers to a number of deficiencies in the new legislation in relation to customs valuation. We seek:</p> <ul style="list-style-type: none"> - Russia's response to these issues; and - a timetable for meeting its commitment that its customs valuation laws, regulations and practices would be in full conformity with the relevant WTO provisions from the date of accession, without recourse to any transition period, and it would not use minimum values, reference prices or fixed valuation schedules.
	<p>[BRA]</p> <p>Given that paragraph 285 points out several deficiencies in the draft Law amending the Customs Tariff Law, Brazil suggests that the Russian Federation be requested to submit further comments on this matter as well as undertake commitments regarding a deadline to bring its legislation on customs valuation into full conformity with the provisions of GATT 1994.</p>
	<p>[CAN]</p> <p><u>General Comments:</u></p> <p>A number of problems remain with the Russian customs valuation system. In particular, the absence of a proper guarantee system is problematic.</p> <p><u>Specific Problems:</u></p> <ul style="list-style-type: none"> - Russian legislation does not adequately provide for a guarantee system allowing goods to be withdrawn from customs pending the determination of value. This problem is not sufficiently well explained and no specific commitment text exists requiring an amendment to the current legislation. <p><u>Possible Solutions and Drafting Proposals:</u></p>

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	<p>- Additional text is required describing the problem and committing Russia to reforming its practices to be in conformity with the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.</p>
	<p>[EC] <u>Descriptive part.</u> Pending clarifications include</p> <ul style="list-style-type: none"> - Further explanations on the "special technique of customs control aimed at preventing gross under-invoicing of customs value" (paragraph 274) and the methods of the "decision making authorities of the customs bodies" for checking the truth of the stated value of products (277). - Replies to questions raised in paragraph 285 - A further discussion on methods used for risk assessment will be necessary. - How the interpretative notes (which are an integral part of WTO) will be incorporated. - What method is used for customs valuation of exports (customs valuation for exports is included in Article VII GATT). <p><u>Commitment:</u></p> <ul style="list-style-type: none"> - Specific elements may need to be addressed through a commitment, depending on the clarifications to follow on the descriptive part
	<p>[JPN] In paragraph 289, it provides that minimum prices are not applicable for customs valuation purposes. And the Russian Federation's commitment to that effect is provided in paragraph 290. In this connection, as minimum customs values have been applicable to automobiles and electric products, we would like to request the Russian Federation to confirm that application of such minimum customs value will be terminated. We would also like to obtain the Russian Federation's confirmation that the system of minimum customs values for audio visual products in each character of these products as well as in each place of manufacturers' headquarters will be amended. In any event, we should establish an independent paragraph to address the issue of minimum customs values.</p>
	<p>[SUI] Paragraph 274 should be moved before paragraph 277 as paragraph 275 and 276 contain the questions and concerns of members and paragraph 274 the answer of the Russian Federation to the question about the special technique. Paragraph 280 : As a draft Law dealing with customs valuation is still pending, this section of the Working Party report will need to be revised and updated once this draft has been adopted. Paragraph 283 : What do you mean by "the 90 days requirement could be administered flexibly" in determining the customs value using the deductive method? Paragraph 288 : Please confirm that the right of appeal to a judicial authority without penalty is foreseen in the customs legislation and where (which article of which law)?</p>
	<p>[USA] <u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p> <p>Russian legislation/regulations necessary to implement WTO rules are pending for this section.</p> <p>Paragraph 278 : The text should contain a substantive response from Russia to the concerns of Members about the "special technique" of customs valuation, or an indication of how this measure will be altered to comply with WTO norms, and include information on the following specific points:</p>

Paragraph No.	Comment
	<ul style="list-style-type: none"> - Given that SCC Order No. 755 appears to perpetuate the system of identifying prior to entry imports for special valuation handling, clarify how Russia will ensure that such a system is not used as a form of administratively applied valuation. - Clarify how the “special technique” of valuation will be eliminated or changed. <p>Paragraphs 285 and 286 : Russia has not addressed all the concerns listed in these paragraphs or raised bilaterally. To ensure that these issues are addressed, the text should describe how the Russian Federation will address the following points:</p> <ul style="list-style-type: none"> - The draft law has poor provisions dealing with the acceptance of a related party transaction value, i.e., it does not stipulate that the test for accepting a related party transaction value shall only be applied at the initiative of the importer, nor does it include the circumstances of sale test for determining the acceptability of related party pricing for the transaction value. - The draft law does not specify where the rate of exchange used in paying fines, fees and charges for customs can be found (Article 9). - The draft law does not indicate that information readily available in the buyer’s commercial record system should be used to the extent possible in order to minimize the burden on the importer and the Customs Administration for the addition of assists under Article 8.1(b)(iv) of the Agreement to the price actually paid or payable. - The alternatives to the “fallback” provision method of valuation described in Article 21.3 of the draft Amendments is not contained in the list of permissible valuations under the fallback provision in Article 7 of the Agreement. - The draft law lacks confidentiality requirements (Article 10). - The draft law does not specifically provide for the right of appeal, without penalty, by the importer. This right of appeal must include the right of appeal without penalty to a judicial authority (Article 11). - The draft law should provide for an improved surety bond system (Article 13) and a list of types of surety bond facilities and firms that can be used (Article 11). - There is no provision for adoption of paragraph 2 of Decision 4.1 on “Valuation of Carrier Media Bearing Software.” <p>Paragraph 285-286 : We seek more current information on the percentage of importations released under Russia’s current guarantee system, e.g., in 2001 or 2002. According to WT/ACC/RUS/38, in response to question 16, Russia stated that in 1998, only 8.1% of importations were released against security of payment of customs charges. This is a very low percentage.</p> <p>While Russia has incorporated portions of the Interpretative Notes into the draft law, we strongly encourage Russia to adopt the remainder of the Interpretative Notes in a law or regulations as soon as possible.</p> <p>It is clear that, in addition to this information, we will need to revisit this text after the legislation, including the new PSI regime and regulations for both, is available.</p> <p><u>Specific Drafting Suggestions:</u></p> <ul style="list-style-type: none"> - There should be reference to and discussion of the new PSI valuation scheme, which is very pertinent to customs valuation, and additional text laying out precisely how the new valuation regime, with its PSI component, will work. As we understand it, the current proposal on PSI that

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	<p>the Russian Federation has under consideration is inconsistent with WTO requirements.</p> <p><u>Elements of a Commitment:</u></p> <ul style="list-style-type: none"> - The language in the text in paragraph 290 is a good basis for developing a commitment. - Pending: depending on the content of the Amendments to the Customs Tariff Law, there may be a need for additional detail in the commitment.
292-310	Rules of Origin
	<p>[AUS] We request inclusion of a legal citation for and other details of the Government Resolution on origin criteria for sugar, relating to the degree that imported raw sugar and refined sugar must be processed in the exporting country. We would appreciate an English translation of this resolution for consideration by the Working Party.</p>
	<p>[CAN] <u>General Comments:</u></p> <p>Russia requires that a good's origin be proven before it is exempted from paying twice the MFN tariff rate, even though only goods originating in several countries face this high tariff rate. This is unacceptable to Canada.</p> <p><u>Specific Problems:</u></p> <ul style="list-style-type: none"> - Russia obliges importers to verify the origin of a good is from a country benefiting from MFN treatment, otherwise it is assessed twice the MFN duty rate. This is unduly burdensome as goods originating in only a small number of countries face this high rate of duty. <p><u>Possible Solutions and Drafting Proposals:</u></p> <ul style="list-style-type: none"> - Commitment language is needed obliging Russia to assess the MFN duty on all goods arriving from countries enjoying MFN duty rates upon accession.
	<p>[EC] <u>Descriptive part.</u> Concerns remain on whether or not MFN treatment is granted by default and if certificates of origin will be systematically required to EC products entering in the Russian Federation customs territory to enjoy MFN treatment. Paragraph 293 and 294 do not give very clear answers on this point. In relation to the request of an origin assessment prior to shipment, it should be verified that the Russian regulation refers to this as an obligation of the customs administration to issue the information when requested by operators and not as a possibility (paragraph 299).</p> <p><u>Commitment</u> The commitment proposed by Members contains the elements we would like to see included. Depending on the clarifications given on the question of double MFN, some further precision may be necessary.</p>

Paragraph No.	Comment
	<p>[USA] <u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p> <p>Paragraph 294 : The text should clarify whether the “competent body” referred to that issues a certificate of origin is designated by the exporting country or by Russia. If it is designated by Russia, more information should be provided on what constitutes a “competent body.”</p> <p><u>Elements of a Commitment:</u></p> <ul style="list-style-type: none"> - The language in the text in paragraph 309 is a good basis for developing a commitment, which should include a further commitment to eliminate the practice of using double MFN rates as the default tariff rate for imports of undeterminable origin.
311-322	Other Customs Formalities
	<p>[EC] <u>Descriptive part</u> Some adaptations of a technical nature may be necessary, in particular on customs checkpoints.</p> <p><u>Commitment</u> Rev3 does not include a proposal for a commitment. This may be needed, notably to respond to the invitation in paragraph 320. In addition, we would like to see a commitment confirming that applications of customs checkpoints shall be consistent with Articles I and XI GATT.</p>
	<p>[JPN]</p> <ol style="list-style-type: none"> 1. In response to the question posed by a Member in paragraph 313, the Russian Federation's answer provided in paragraph 315 refers to "the designation of customs clearance of particular goods to certain border customs points". We would like to request the Russian Federation to provide some materials indicating which items are subjected to which customs points. 2. Paragraph 317 enumerates cases under which the Russian Federation's executive governmental body is entitled to designate specific customs points. We would like to request the Russian Federation to provide some materials indicating how many customs points will be designated and which customs points will be used, etc. 3. In paragraph 317, reference is made to special control for goods containing objects of intellectual property (ref;(iv)). We would like to seek clarification from the Russian Federation on the meaning of (iv) in detail. 4. In paragraph 319, it provides that "a particular customs office could have the exclusive right to carry out customs procedures in respect of certain categories of goods". As Table 17(b) contained in the Rev.3 does not indicate which customs office is entitled to such exclusive right, we would like to request the Russian Federation to provide some materials clarifying the above point. We would also like to seek clarification from the Russian Federation on what criteria these offices are entitled to such right. 5. We are concerned about situation where system of specific customs points may cause the effect of de fact import restrictive NTB in case importers are forced to use certain specific customs points located in a far away region in order to carry out customs clearance of certain items. We would like to request the Russian Federation to clarify the above concern and in any event the Russian Federation's commitment that specific customs control will be implemented in conformity with the WTO agreement is required.
	<p>[SUI] Paragraph 319 and Table 17b : This paragraph should be further elaborated on the reasons to restrict the right to carry out customs procedures to a particular customs office. What is the reason to impose restriction in the case of goods meant for demonstration at exhibitions etc... and watches in</p>

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	precious metal? Have the relevant legislation already been provided to the WTO Secretariat? If not, please provide it.
	<p>[USA] <u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p> <p>Paragraph 313 : The text should confirm if any aspect of the treatment described there still exists, or if it disappeared with the “invalidation” of SCC Order 155.</p> <p>There is a serious typo in paragraph 313 that should be corrected, as follows: “As well as raising concerns in relation to conformity with WTO requirements on trade in transit, these decrees made it impossible 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. “</p> <p>The text should indicate whether the public is permitted to comment on lists of products designated for special treatment or on the development of such special methods of customs handling prior to implementation.</p> <p>The text should clarify whether there are other forms of special customs treatment, in addition to those listed in paragraph 317 and the special technique for valuation of certain high risk imports.</p> <p>The text of paragraph 319 should state where the list of goods found in Table 17(b) “pursuant to Article 402” of the Customs Code can be found in Russian Law (Note: It is not listed in Article 402 of the Customs Code. End note)</p> <p><u>Elements of a Commitment:</u></p> <ul style="list-style-type: none"> - Confirmation that Tables 17(a) and 17 (b) are a comprehensive list of the current restrictions on customs points. - Confirmation that these restrictions will be eliminated as of the date of accession. - Confirmation that from the date of accession, all regulations, formalities and requirements connected with the importation of goods, statistical control, customs clearance, documents, documentation and certification, inspection and analysis, and any changes to these regulations, formalities and requirements will be published sufficiently in advance for importers to be aware of them and that the Russian Federation will apply them in a uniform, impartial and reasonable manner across its customs territory, as required by the WTO , including Articles VIII and X of the GATT 1994
323-328	<u>Preshipment Inspection</u>
	<p>[CAN] <u>General Comments:</u></p> <p>Russia has indicated that it is preparing the first draft of legislation which would permit it to implement a pre-shipment inspection (PSI) regime as a transitional measure for three years. Private firms would be hired to inspect goods to verify, among other things, their quantity and quality. In general, while PSI can be WTO consistent, it is not the preferable way to address the shortcomings of the Russian customs regime. By outsourcing the inspection of goods it would allow the customs authority to avoid addressing its failings. Moreover, it adds the expense of using private firms.</p>

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	<p>If a PSI regime is to be instituted it is important that Members have access to the draft legislation and it be described in the Working Party Report so Members can address any of its shortcomings. As well, it would be important that the three year transition period be included in the commitment text. To date this has not been done.</p> <p><u>Specific Problems:</u></p> <ul style="list-style-type: none"> - In Canada's view, it is important that there be a description of Russia's proposed PSI regime (e.g. the draft legislation) so Members can provide their comments on it. - As currently stated in paragraph 324 it would be preferable if Russia did not put in place a PSI regime as it would be best if the needed reforms to the Russian Customs authority were implemented instead of relying on PSI. If, nonetheless, a PSI regime is to be put in place it is important that, as Russia has indicated it will do, this regime is made transitional and terminated three years after its implementation. <p><u>Possible Solutions and Drafting Proposals:</u></p> <ul style="list-style-type: none"> - Agreement to modified version the current bracketed commitment language in paragraph 327 that commits Russia to the termination of any PSI regime three years after its implementation: <ul style="list-style-type: none"> - "327. [The representative of the Russian Federation confirmed that if a pre shipment inspection system would be introduced in the future, it would be temporary <i>and would be terminated three years from the date of its implementation</i>. The Government of the Russian Federation would take responsibility to ensure that the operations of any pre shipment inspection companies it retained would comply with 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 the GATT 1994, and that such system would comply with the due process and transparency requirements of the WTO Agreements, in particular Article X of the GATT 1994, and the Agreement on the Implementation of Article VII of the GATT 1994. The Working Party took note of these commitments.]"
	<p>[EC] <u>Descriptive part</u> Concerns remain on the possible introduction of PSI, its possible features and the WTO compatibility. We take note that Russia has not yet taken a decision on whether or not PSI should be introduced. Further examination may be necessary if such a system is introduced.</p> <p><u>Commitment</u> The commitment will need to reconfirm the applicability of the relevant GATT disciplines to PSI, and a maximum duration of 3 years of PSI measures.</p>
	<p>[SUI] Paragraph 326: please provide the translation of the draft government resolution on the approval of the regulations on pre-shipment inspection as well as the exhaustive list of goods that will be subject to PSI. Please provide additional information on the timeframe and the reasons for which the Russian Federation plans to introduce pre-shipment inspection. Has the draft resolution been adopted yet?</p>

Paragraph No.	Comment
	<p>[USA] <u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p> <p>Russian legislation/regulations necessary to implement WTO rules are pending for this section.</p> <p>Paragraph 325 : This paragraph should be expanded to include the following information:</p> <ul style="list-style-type: none"> - Confirmation that Russia will use this facility for no more than 3 years and that all costs for the valuation will be deducted from tariff payments. - An illustrative list of products for mandatory valuation by a preshipment inspection (PSI) firm and information as to whether this list is similar to that used by Customs to apply fixed minimum values to imports under the “special technique” of valuation. - Clarification as to whether the goods subject to PSI will again be subject to inspection and/or valuation when they enter Russia, i.e., that they can be examined twice. <p>Paragraph 326 : This paragraph, or a separate paragraph, should clarify that Russia understands that the utilization of PSI firms does not abrogate its responsibility to apply WTO provisions in the conduct of all aspects of customs administration, including customs valuation.</p> <p>The following requests for information and clarification are keyed to the sections of an early draft of the PSI legislation. These points should be clarified in the text of this section:</p> <p>Section 13 : There is a reference in this section of the draft decree to a “list of goods that are not subject to preshipment inspection.”</p> <ul style="list-style-type: none"> - Will the list of imports specified by the GR be a positive list of goods subject to PSI valuation, qualified by a list of circumstances, if any, in which goods so listed may not require inspections? Or is there to be a negative list, as is implied by section 13? - We request that Russia provide an illustrative list of products for mandatory valuation by a PSI firm. Is this list similar to that used by Customs to apply fixed minimum values to imports under the “special technique” of valuation? To what extent are these products also diverted to specific customs ports of entry? <p>Section 15 indicates that costs for a preshipment inspection will be at least 12,000 rubles but cannot exceed 1 percent of the cost of goods. This <i>ad valorem</i> based fee system is inconsistent with Article VIII of the GATT.</p> <ul style="list-style-type: none"> - Please specify how PSI costs will be calculated, and confirm that they will reflect costs of the service, not an <i>ad valorem</i> share of shipment value. <p>Section 16: Concerning adjudication of disputes, the draft GR states that complaints about inspection results are “given to an organ of the inspection ... in Russian, in writing.”</p> <ul style="list-style-type: none"> - Are complaints or appeals to be made directly to the entity/entities that conduct inspections, or to a separately-designated body or agency within the Russian Government? - How will Russia monitor the entity’s/entities’ use of WTO provisions to ensure compliance? How will the right of appeal to an independent tribunal provided for in the Customs Valuation Agreement be implemented?

Paragraph No.	Comment
	<p>Sections 19-24: These sections refer to a Commission for adjudication of PSI disputes. Please explain the envisioned composition and authority of this Commission.</p> <ul style="list-style-type: none"> - Please confirm that this Commission will operate in accordance with Article 4 (“Independent Review Procedures”) of the Agreement on Preshipment Inspections, and the similar relevant Articles of other WTO Agreements. <p>While Section 19 allows the inspection organ up to two days to rule upon an appeal or complaint, the draft stipulates no deadline/maximum time by which the Commission must issue a ruling.</p> <ul style="list-style-type: none"> - Please confirm whether Commission action will also be under deadline and state what that will be. <p>Section 31 of the draft states that “The Russian Federation does not bear responsibility for actions or non-actions of an organ of the inspection.”</p> <ul style="list-style-type: none"> - Please explain how, if this is to be the case, the Russian Federation plans to assume operational responsibility for ensuring that inspection entities (organs of inspection) comply with WTO provisions? - We understand that the goods will be subject to inspection again when they enter Russia, i.e., that they can be examined twice. If so, this appears to be an additional burden on imports. <p>Russian officials have reported that their intention is that PSIs will not add to importers’ costs, and that the cost of PSIs will be deducted from any applicable import tariff. This issue is not addressed in the September 10, 2004 draft decree.</p> <ul style="list-style-type: none"> - Could the Russian Federation please explain how this “cost-neutrality” principle will be implemented? Also, please specify whether this rebate from the import tariff due will be extended to excise duties and/or VAT, in any possible instances in which the PSI inspects goods that may be tariff-free, but are subject to excise taxes and/or VAT? <p><u>Specific Drafting Suggestions:</u></p> <p>The text of this section should provide:</p> <ul style="list-style-type: none"> - Information on the issues discussed above; and - The schedule for implementation of this new concept. <p><u>Elements of Commitment:</u></p> <ul style="list-style-type: none"> - The language in the text of paragraph 327 is a good basis for developing a commitment, as it addresses directly the need for Russia to take full responsibility for any mandatory customs activities that it transfers to other actors and establishes that the activities of the PSI firms selected to perform mandatory customs processing are subject to the requirements of the relevant WTO Agreements. - The commitment may require addition of specific elements addressing individual concerns, e.g. right of appeal, fees approximate to the cost of services, transparency and publication of rulings, etc., as follows: <ul style="list-style-type: none"> - That fees will be applied in accordance with the provisions of Article VIII of the GATT and not on an ad valorem basis; and - That Russia will provide the same transparency and due process protections to importers and exporters whose trade is inspected by PSI firms that would be due if the services were undertaken by its government agencies

Paragraph No.	Comment
329-332	Balance of Payments
	<p>[JPN] In paragraph 332, some Members mention that "the provisions of Federal Law No.63-FZ that address trade remedies... would only be replaced by other legal provisions". We would like to seek clarification from the Russian Federation on the meaning of "other legal provisions" and if necessary it should be amended.</p>
	<p>[SUI] Paragraph 331 : the Government could adopt a decision to impose measures towards restriction of foreign trade in goods. The restriction of trade in goods could be implemented by means of introducing an import quota or other measures for a term required to restore the equilibrium of the balance of payments. Article 3 of the Understanding on BOP clearly states that "<i>Members shall seek to avoid the imposition of new quantitative restrictions for BOP purposes ... unless price-based measures cannot arrest a sharp deterioration in the external payments position</i>". Thus, the Understanding clearly imposes an order of priority. Could Russia explain how this order of priority is reflected in its domestic laws?</p>
	<p>[USA] <u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p> <p>The text should identify any other provisions in Russian Law that deal with BOP measures.</p> <p><u>Elements of a Commitment:</u></p> <p>We suggest the following commitment:</p> <p style="text-align: center;"><u>332bis. The representative of the Russian Federation confirmed that its authority to apply measures to restrict imports to protect the balance of payments was provided in the Law No. 164-FZ of 8 December 2003 "On the Fundamentals of State Regulation of Foreign Trade Activity," and that from the date of accession, his government would ensure that any measures applied to imports for balance of payments purposes would be in a manner consistent with the requirements of the Understanding on Balance-of-Payments Provisions of the GATT 1994, as well as Article XII of the GATT 1994. The Working Party took note of these commitments.</u></p>
333-347	Anti-Dumping, Countervailing and Safeguard Measures
	<p>[CAN] <u>General Comments:</u></p> <p>Several issues remain to be clarified.</p> <p><u>Specific Problems:</u></p> <p>While an acceptable level of progress is being made with specific issues being addressed, statements by Russian officials, as recorded in paragraphs 344-345, that the WTO consistency of their own legislation is dependent somehow on the consistency of the legislation of other members is not helpful.</p>

Paragraph No.	Comment
	<p><u>Possible Solutions and Drafting Proposals:</u></p> <p>In the last draft report, paragraphs 333-334 had suggested that measures could be terminated prior to the maximum duration for anti-dumping, countervailing or safeguard measures provided for by the WTO Agreements, suggesting some sort of changed circumstances provision. The current draft has no such reference. This should be clarified.</p> <p>While Paragraph 336 and the Working Party meeting of November 18 provided additional detail, the administrative framework under which Russian authorities will conduct trade remedy investigations has not been described in sufficient specificity. It still might be useful to propose that a more detailed description of the institutional apparatus be included (i.e., Which administrative unit is doing which administrative function?) Further, the use of the term cancellation in paragraph 335 is interesting in the context. Which and on what basis may measures be cancelled? Who makes that decision?</p> <p>The correct reference in paragraph 340 is the Agreement on Safeguards, not the Agreement on Subsidies and Countervailing Measures (ASCM).</p> <p>The last sentence of paragraph 342 is still incorrect. The concept of de minimis dumping has nothing to do with whether price undercutting in the context of Article 3.2 of the Agreement is significant or not. The margin of dumping is the comparison between prices of the product under investigation and normal values (i.e. prices in the home market or costs), while price undercutting in Article 3.2 suggests a comparison between prices of the product under investigation and prices of the domestic industry.</p>
	<p>[EC]</p> <p><u>Descriptive part</u></p> <ul style="list-style-type: none"> - Review of measures taken prior to accession: we do not expect a self initiated formal review but would like to see that EC or exporters could request a review. - Paragraph 340 relates to the Agreement on Safeguards (not subsidies and countervailing measures). The invitation to enter into the commitment referred to is to do so upon WTO entry. <p><u>Commitment</u></p> <p>The commitment in paragraph 346 will need to be completed. Several paragraphs in the descriptive section contain a request for a specific commitment. We expect these to be specifically addressed in the commitment (including paragraph 337, 338, 339, 340, 342 and following) ensuring that the WTO articles referred to will be applied as from WTO entry.</p>
	<p>[JPN]</p> <ol style="list-style-type: none"> 1. In paragraph 334, it provides that "Any investigation which had been initiated upon a written application lodged prior to the entry into force of Federal Law No.165-FZ would be conducted under the still operative Federal Law No.63-FZ". Clarification is required as to whether any measures taken under the Federal Law No.63-FZ continue to be regulated by this Law even after entry into force of the Federal Law No.165-FZ. If this seems to be the case, we would like to seek clarification from the Russian Federation on how the WTO consistency with regard to the above mentioned measures will be ensured in reality. 2. Taking the Safeguard Agreement as an example, in this section, clarification is sought by the Members concerning Articles 2 and 6 of the Agreement and the Russian Federation's commitments concerning such Articles are included in paragraph 346 accordingly. With regard to trade remedy measures, careful consideration is required on which Articles of the Subsidiary Agreement, the Anti-dumping Agreement and the Safeguard Agreement the Russian Federation's commitments should be sought, in addition to its comprehensive commitments to ensure the WTO consistency vis-à-vis these

Paragraph No.	Comment
	<p>three Agreements. In particular, given that we need to ensure that concrete procedures for taking measures under these trade remedy related agreements should be implemented appropriately, the Russian Federation's commitments to be included in the Report should not be confined only to certain parts of each respective Agreement.</p> <p>3. In paragraph 344, the Members request the Russian Federation that measures taken by the latter should be fully consistent with the WTO agreement. However, the Russian Federation, in paragraph 345, seeks these WTO Members maintaining WTO-inconsistent trade measures against exports from the Russian Federation to bring these measures into conformity with the WTO agreement. Japan is of the view that such Russian Federation's statement in paragraph 345 does not seem to be consonant with the purposes and objectives of the present Report which describes the Russian Federation's domestic legal regimes, etc. Therefore, the paragraph needs to be reviewed.</p>
	<p>[USA] <u>Trade Remedy Measures</u></p> <p><u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p> <p>Russian legislation/regulations necessary to implement WTO rules are pending for this section.</p> <p>The text should provide response to the comments in paragraphs 337-343, and include information reflecting Russia's more detailed response to the written comments provided bilaterally.</p> <p>Clarification should be provided in the text on how the law is being implemented, e.g., are regulations originally written for the previous legislation in place and being applied for the new law or will there be new regulations? What are the amendments contemplated?</p> <p><u>Elements of a Commitment:</u></p> <p>Paragraphs 345-346: The commitment text in these paragraphs is inadequate. We suggest the following as a basic commitment:</p> <p><u>xx. The representative of the Russian Federation confirmed that, upon accession, the Russian Federation would ensure that all relevant legislation in place in the areas of trade defense instruments would be in full conformity with the Agreement on the Implementation of Article VI, the Agreement on Subsidies and Countervailing Measures, and the Agreement on Safeguards. He further confirmed that the Russian Federation would not apply any anti-dumping, countervailing or safeguard measure after accession until it had notified and implemented appropriate laws and regulations in conformity with the provisions of these WTO Agreements. The elaboration of any legislation concerning anti-dumping, countervailing and safeguard measures, the Russian Federation would ensure their full conformity with the relevant WTO provisions, including the Agreements on the Implementation of Article VI, the Agreement on Subsidies and Countervailing Measures and the Agreement on Safeguards.</u></p> <ul style="list-style-type: none"> - Additional commitment language may be necessary to address individual issues, such as review of trade remedy measures in place upon accession or issues in the text of the law. - Given the paucity of information provided to date in a number of areas, Members may also require recourse to a special safeguard mechanism regarding imports from Russia for a transitional period.

Paragraph No.	Comment
348-381	2. Export Regulations
348-354	- Export Duties
	<p>[AUS]</p> <p>1. We welcome Russia's preparedness to phase out or reduce most of the currently applied export duties. We would encourage it to establish a timetable to phase out all of its export duties and not apply export duties to any product except in accordance with the schedule for their elimination.</p> <p>2. In relation to paragraph 354, we suggest the following correction (in <i>italics</i>) to the commitment text:</p> <p style="padding-left: 40px;">x. The representative of the Russian Federation confirmed that..... the Russian Federation would <i>not</i> introduce, or re-introduce export duties....."</p>
	<p>[EC]</p> <p><u>Descriptive part</u> The descriptive part may need to be completed after conclusion of Russia's bilateral negotiations.</p> <p><u>Commitment</u> We welcome the commitment proposed by Russia in paragraph 354. This paragraph will need to be merged with the commitment proposed by Members in paragraph 353. Paragraph 353 should also be redrafted slightly in order to cover internal taxes and other internal regulations more generally.</p>
	<p>[JPN]</p> <p>1. In paragraph 348, it provides that timber is listed as item subject to imposition of export duties. We would like to seek clarification from the Russian Federation on particular reasons why the export duties are imposed on timber.</p> <p>2. Referring to the list of export tariffs contained in WT/ACC/SPEC/RUS/25/Rev.3/Add.2, export duties are imposed on timber products such as 44.03, but, not imposed on products of 44.12 or higher processed products. We would like to seek clarification from the Russian Federation on concrete reasons why the export duties are imposed only on certain types of timber products.</p> <p>3. In paragraph 351, it provides that export duties are subject to regular review mechanism. Clarification is required from the Russian Federation as to the detail of such mechanism including the purpose of conducting review.</p>
	<p>[USA]</p> <p><u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p> <p>Paragraph 348 : The text should include additional and updated information on Russia's overall plan for its export duties, i.e., a schedule for eliminating all the remaining duties.</p> <p><u>Elements of a Commitment:</u></p> <p>Paragraphs 353-54 : Neither of these commitments is adequate, given the level, scope and effect of Russia's export duties.</p> <p>We propose the following:</p> <p>xx. The representative of the Russian Federation confirmed that the Russian Federation would reduce or eliminate the export duties listed</p>

Paragraph No.	Comment
	<p><u>in WT/ACC/SPEC/RUS/25/Rev.3/Add.2 prior to accession or by 1 January 2006, whichever is earlier, with the exception of those products listed in table xx. In particular, he confirmed that export duties on steel scrap and copper cathode had been eliminated well in advance of accession. He further confirmed that the Russian Federation would not increase the level of export duties still in effect prior to 1 January 2009, nor would Russia introduce or reintroduce such measures prior to that time. The Working Party took note of these commitments.</u></p>
355-366	<p>- Quantitative Export Restrictions, Including Prohibitions and Quotas</p>
	<p>[AUS]</p> <p>1. It is clear from paragraph 363 that Russia continues to apply a number of unjustifiable export restrictions and further reforms are still pending to Russia's system. We seek:</p> <ul style="list-style-type: none"> - detailed additional text in this section once the full extent of Russia's reforms are clear; - a response to comments we have provided (see Attachment A) on Russia's paper on "Liberalisation of Trade in Stones and Precious Metals". This provides a useful step for clarifying outstanding text for this section. <p>2. We note Russia continues to require that diamond producer's exports of natural diamonds be limited to 15 per cent of its value of natural diamonds purchased within the year from agents of natural diamonds' extraction or the State Fund of Precious Metals and Precious Stones of the Russian Federation. We seek:</p> <ul style="list-style-type: none"> - clarification in the text as to when will this quantitative export restriction be eliminated in order that Russia's regime for the export of natural diamonds will be brought into conformity with Article XI:1 of GATT 1994.
	<p>[EC]</p> <p><u>Descriptive part</u></p> <ul style="list-style-type: none"> - some linguistic improvements would be useful (e.g. paragraph 357). - Paragraph 364 could be more precise on the stated intentions (in particular in terms of timing). <p><u>Commitment</u></p> <ul style="list-style-type: none"> - The commitment proposed by Members in paragraph 365 contains the main elements we would like to see included in a commitment. - We invite Russia to provide clarifications which exceptions for imposing QRs it has envisaged by quoting Art XVII in the commitment it proposes in paragraph 366.
	<p>[JPN]</p> <p>In paragraph 357, the Russian Federation states that measures with no economic character and concerning foreign trade in goods will not be a means of unjustifiable discrimination or a disguised restriction on international trade in goods and further states that they will not be applied to goods originating in countries or groups of countries towards which the Russian Federation has no legal obligation to accord treatment no less favourable than that accorded to other countries or groups of countries. Are the above statements compatible with the Russian Federation's commitment in paragraphs 365 and 366 that it will ensure the WTO consistency concerning its export quantitative restriction ?</p>

Paragraph No.	Comment
	<p>[USA] <u>Concerning Registration for Exportation:</u></p> <p>Paragraph 361 : The second half of this paragraph states:</p> <p style="padding-left: 40px;">“ . . . export licensing was mandatory for exports of refined platinum and metals of platinum group in form of ingots, plates, powder and granules; unprocessed precious metals (excluding natural pieces of metals not subject to refining); unprocessed gold and silver (only refined in form of ingots, plates, powder and granules as well as gold used to produce coins); natural processed and unprocessed precious stones (sapphire, ruby, emerald); minerals (only unique amber pieces); mineral and secondary raw materials containing precious metals, including concentrated ores and residuals of non-ferrous metals and their semi-manufactures.”</p> <p>The text should be clarified as to whether this “licensing” is activity licensing or export licensing, or both.</p> <p><u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p> <p>Russian legislation/regulations necessary to implement WTO rules are pending for this section. The text should include explicit reference to existing and pending legislation (e.g., Law No. 164-Fz and the draft GR that implements licensing requirements) that will have an effect on export restrictions.</p> <p>Paragraph 290<i>bis</i> : The draft working party report should have a list of all current export Quantitative Restrictions and bans (QRs). It should be:</p> <ul style="list-style-type: none"> (a) comprehensive for all QRs, including export bans and quotas; and (b) be incorporated in a chart by HS export number. <ul style="list-style-type: none"> - In this regard, we note that other sections of this report, e.g., Registration for Import/Export Operations and Export Licensing, indicate that there is an export ban on waste and scrap of precious metals. This should be noted in this section. - If restrictions do not have an adequate WTO justification, Russia should indicate in the text its specific plans for reviewing and altering or removing these barriers. <p>Paragraph 358 : We note that Members’ concerns regarding quantitative restrictions on exporting natural gas and its consistency with Article XI are not specifically addressed. As provided for in Russian law (On Gas Supply in the Russian Federation; No. 69-FZ, March 31, 1999) and noted in the most recent OECD Economic Survey, Gazprom is required to supply the domestic market, which we consider to be a de facto restraint on exports (see p. 143). In return for supplying the domestic market at below-cost prices Gazprom has a monopoly on non-CIS exports.</p> <ul style="list-style-type: none"> - Please include information on these points in the text. <p><u>Specific Drafting Suggestions:</u></p> <p>In addition to the points listed above, in Para 289: Item 4: The word “values” should be “valuables.”</p>

Paragraph No.	Comment
	<p><u>Elements of a Commitment:</u></p> <p>The language in paragraphs 365 and 366 is not a good basis for developing a commitment. The commitment text should include the following elements:</p> <ul style="list-style-type: none"> - To eliminate from the date of accession, quantitative restrictions on exports (including requirements and restrictions having equivalent effect) that cannot be justified under the provisions of the WTO Agreement; - Not to introduce, re-introduce or apply such measures after accession; - To use from the date of accession any discretionary authority to suspend exports or otherwise restrict the quantity of trade, including the provisions of Federal Law No. 164-Fx, “On the State Regulation of Foreign Trade Activities,” in conformity with the requirements of the WTO; and - An explicit commitment that any restrictions on exports of domestic materials to ensure essential quantities of such materials to a domestic processing industry shall not operate to increase the exports of or the protection of such domestic industry. <p>We suggest the following commitment language:</p> <p><u>xx. The representative of the Russian Federation confirmed that his Government would, from the date of accession, eliminate and not introduce, re-introduce, or apply directly or indirectly, quantitative restrictions or other non-tariff barriers on exported goods, such as quotas, bans, permits, prior authorization requirements, licensing requirements, domestic market supply requirements and other restrictions having equivalent effect that cannot be justified under the provisions of the WTO Agreement. He further confirmed that discretionary authority to suspend exports or otherwise restrict the quantity of trade, including provisions of Federal Law No. 164-Fz, “On the State Regulation of Foreign Trade Activities,” would be applied from the date of accession in conformity with the requirements of the WTO, in particular Articles XI, XIII, XVII, XX and XXI of the GATT 1994. He also confirmed that any restrictions on exports of domestic materials to ensure essential quantities of such materials to a domestic processing industry shall not operate to increase the exports of or the protection of such domestic industry. The Working Party took note of these commitments.</u></p>
367-375	- Export Licensing Procedures
	<p>[AUS]</p> <p>1. We note that much of the text of this section will need to be updated for ongoing reforms to the Russian system of export restrictions and licensing. In particular, Russia continues to operate non-automatic export licensing rules in order to implement WTO-inconsistent quantitative restrictions in relation to precious metals and stones. We seek:</p> <ul style="list-style-type: none"> - a response from Russia on our attached paper (Attachment A) in order to provide the necessary information to move forward on this section. <p>2. In relation to draft commitment language in paragraph 374, we seek a reference to Article VIII of GATT 1994 in relation to fees and formalities connected with exportation and importation.</p>
	<p>[EC]</p> <p><u>Descriptive part</u></p> <ul style="list-style-type: none"> - Same comment as for import licensing (implementing legislation pending). We suggest that a redraft includes an explanation of all circumstances under which export licences are applied.

Paragraph No.	Comment
	<ul style="list-style-type: none"> - We continue to have doubts about the justifications of some non-automatic export licences included in table 18 (includes also non-sensitive ICT products) - Licence for energy products: we would still like to see some further clarifications (reference is made to the section on registration requirements, but the answer cannot be found in that section) <p><u>Commitment</u></p> <p>The commitment proposed by Members in paragraph 374 contains the elements we would like to see included in a commitment. Some redrafting may be necessary as the word "export control" could cause confusion.</p>
	<p>[JPN]</p> <p>In paragraph 373, it provides that there are no export licensing requirements for export of gas, oil, oil products. We need to seek clarification from the Russian Federation on the relationship between activity licensing requirements and export licensing requirements. For example, activity licensing requirements are said to be regulated by trade in services. Do such activity licensing requirements include automatically export permissions? These clarified points should be reflected in the present section if appropriate.</p>
	<p>[USA]</p> <p><u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p> <p>Russian legislation/regulations necessary to implement WTO rules are pending for this section.</p> <p>Paragraph 367 : The text should clarify the relationship between the various legal instruments that govern export licensing procedures (e.g., between GR No. 1299 of 31 October 1996, Law No. 164-Fz, and the draft GR that implements licensing requirements).</p> <p><u>Specific Drafting Suggestions:</u></p> <p>Paragraph 367 and Tables 18 (a) and (b) :</p> <p>Please confirm in the text that the list of items subject to export licensing in Tables 18(a) and (b) is comprehensive.</p> <p>Please include in the charts listing current exports subject to export licensing:</p> <ul style="list-style-type: none"> - what Ministries, and how many, must be approached to acquire a license; and - whether an activity license for exporting, production, or distribution is required in order to acquire an export license. <p>Confirm in the text that MEDT issues all licenses except for those involving weapons, often based on the requirement for an import permit from some other ministry.</p> <p>Indicate in the text Russia's specific plans for reviewing and altering or removing any requirements where discretionary import licensing is not</p>

Paragraph No.	Comment
	<p>justifiable under the WTO.</p> <p>Paragraph 371 : The reference to the export ban on waste and scrap of precious metals should be moved to the QR section, as this is not an export licensing issue.</p> <p><u>Elements of a Commitment</u></p> <ul style="list-style-type: none"> - Paragraphs 374 and 375 do not provide for the elimination of current measures, except those applied to precious stones and metals, and do not cover discretionary authority. The commitment elements recommended for the WP report section on Export QRs apply equally to the licensing section of the draft WP report. Both sections should be covered by the commitment paragraph.
376-381	<p>- Other Customs Export Formalities</p>
	<p>[EC]</p> <p><u>Descriptive part</u></p> <ul style="list-style-type: none"> - We would like to see some elaboration on customs checkpoints (criteria). <p><u>Commitment</u></p> <p>Rev3 does not include a proposal for a commitment. This may be needed, to confirm that applications of customs checkpoints shall be consistent with Articles I and XI GATT.</p>
	<p>[JPN]</p> <p>1. In paragraph 376, it provides that "State border check-points were established by the Government...". We need to seek clarification from the Russian Federation on how State border check-points differ from customs check-points and wish to request the Russian Federation to provide some materials concerning the purposes and functions of such State border check-points.</p> <p>2. We would like to seek clarification from the Russian Federation on what is envisaged by "possible export restrictions" set out at the end of paragraph 378. If they refer to the measures mentioned in some other sections of the Report, we should make a cross-reference.</p>
	<p>[SUI]</p> <p>Paragraph 378 : Please provide the exhaustive list of possible export restrictions.</p>
	<p>[USA]</p> <p><u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p> <ul style="list-style-type: none"> - Does Law No.4730-1 of 1 April 1993 "On the State Border of the Russian Federation" authorize the designation of specific export customs points or only the creation of such points? - What is the relationship of this law to Article 119 of the Customs Code? Are Articles 125 and 402 relevant, or do they only deal with imports? <p><u>Specific Drafting Suggestions:</u></p> <ul style="list-style-type: none"> - Ensure that the text is comprehensive in (a) listing the goods for which a restricted number of customs exit points are available and (b) for each good, the number of customs posts made available. If the list is not comprehensive, please provide a list of all relevant products and customs posts.

Paragraph No.	Comment
	<p>- For each category of goods, confirm Russia's intent, i.e., to continue the requirement, with suitable WTO justification, or to alter or eliminate current restrictions from the date of accession.</p> <p><u>Elements of a Commitment:</u></p> <p>- Confirmation that, from the date of accession all regulations, formalities and requirements connected with the exportation of goods, statistical control, customs clearance, documents, documentation and certification, inspection and analysis, and any changes to these regulations, formalities and requirements will be published sufficiently in advance for importers to be aware of them and will be applied in a uniform, impartial and reasonable manner across the customs territory of the Russian Federation, consistent with WTO requirements, including Articles VIII , X, and XI of the GATT 1994.</p>
382-560	3. Internal Policies Affecting Trade in Goods
382-397	- Industrial Policies, Including Subsidies
	<p>[CAN] <u>General Comments:</u></p> <p>The text offers a comprehensive survey of Russia industrial subsidy policies as they apply to a number of key sectors. The text notes that total state support, in the form of direct transfers, loans, deferred payments and exemptions, and tariffs paid on monopolies average about US\$12 billion annually, including US\$10 billion from the federal budget. Direct transfers are the main delivery mechanism of state support to the industrial sector, with particular emphasis on restructuring of the coal industry. Regarding regional financial contributions, the text notes that Russia's objective is to reducing regional disparities as opposed to developing industrial production, social situations being the primary basis for assistance.</p> <p>The text also goes to considerable lengths to argue that monopoly or government pricing of oil, natural gas, and electricity is not a subsidy. This is clearly problematic and will continue to be questioned by Canada and other members. While the text provides a good deal of information on the provision of subsidies within Russia, including amounts and methods of delivery, substantive questions remain on the specifics of certain type of government programs. (Please see submission on Pricing Policies).</p> <p><u>Specific Problems:</u></p> <p>While progress has been made with respect to the provision of additional information on Russian subsidy programs, further clarification, particularly with respect to monopolies and energy pricing, is required. This may be included in the subsidy notification that Russia is committed to in paragraph 396.</p> <p>The latest version of the Working Party Report does not reflect the concern of some delegations, including Canada, that regulated, non-market pricing of energy is a subsidy. (see submission on Pricing Policies).</p> <p><u>Possible Solutions and Drafting Proposals:</u></p> <p>- The last sentence of paragraph 388 states: "The amendments made to the above-mentioned Law (referring to the State Aid Law) would ensure</p>

Paragraph No.	Comment
	<p>control over subsidies prohibited under the provisions of the WTO Agreement on Subsidies and Countervailing Measures." This section should define the subsidies covered by the amendment in question and the conditions under which they will be provided and/or controlled.</p> <ul style="list-style-type: none"> - Paragraphs 391-392, which concern questions about whether Russia has reformed its natural monopoly and pricing practices on oil, natural gas and electricity, should include further detail. Such an explanation would be connected to the pricing policy issues, particularly the suggestion that non-market pricing of energy is a subsidy.
	<p>[EC] <u>Descriptive part</u></p> <ul style="list-style-type: none"> - We note that an updated notification is still awaited. Further comments may follow at a later stage. - Some elements in this section are interrelated with the TRIMs discussion (e.g. cars, aircraft) (in connection with RF request for Art 27) where further information/discussion is needed. - We would like to receive further information on the intentions as regards export guarantees/credits. <p><u>Commitment</u></p> <ul style="list-style-type: none"> - For a later stage.
	<p>[JPN]</p> <p>1. In paragraph 389, some Members state that certain subsidy programs such as production sharing agreements and other programs for automotive and civil aircraft industry appear to constitute prohibited subsidies under the Agreement on Subsidies and Countervailing Measures. However, there is no response to such statement from the Russian Federation in the present section. Therefore clarification is required on the point mentioned above. The clarified points should be included in an appropriate paragraph.</p> <p>2. We need to examine which section should be more appropriate to place all subsidy-related description currently provided in the present section, including the possibility of moving such description to the section of "Anti-dumping, Countervailing and Safeguard measures".</p>
	<p>[USA] <u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p> <p>Aircraft:</p> <p>1) In August 2001, the Russian Federation announced the results of an "open tender" (e.g., request for bids) for leasing companies seeking government backing and support of leasing agreements with Russian airline companies for Russian-made aircraft. The two companies which won the bid were Ilyushin Finance (IFC) and Financial Leasing Company (FLC). Pursuant to GOR investments of US\$80 million (initially) and US\$29.3 million (in 2003) in IFC and US\$52.6 million (initially) and US\$12.8 million (in 2003) in FLC, these companies are 38 percent and 58 percent government-owned, respectively.</p> <ul style="list-style-type: none"> a.) Please explain the legal and commercial basis upon which the GOR invested in IFC and FLC. b.) Please explain why the contracts were awarded to IFC and FLC. <p>2) It appears that the purpose of Decree No. 466 is to encourage the purchase and lease of Russian-made aircraft by lowering the leasing costs of Russian-made aircraft by Russian airlines. The nature of this support takes the form of lower financing costs and an 85 percent government guarantee</p>

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	<p>of the financing. Pursuant to Decree No. 466, the GOR partially reimburses the leasing company up to one-half of the interest costs it incurred in purchasing the aircraft. It is assumed that the program requires that the lowered interest costs of the leasing companies B due to the interest reimbursements and state guarantees B must be passed on in the form of lower lease payments to the airlines leasing the planes.</p> <p>a) Is the above description of how the program operates correct? Was this program designed, effectively, to replace Government Resolution No. 716?</p> <p>b) Are only Russian-made aircraft eligible for this program?</p> <p>c) From whom do the leasing companies obtain loans to buy Russian-made planes? How is the interest rate established?</p> <p>d) To what extent does the government guarantee of the loans obtained by the leasing companies result in an interest rate lower than otherwise would have been provided commercially absent the guarantee?</p> <p>e) What was the total amount of interest reimbursements made by the GOR in 2003? What is the budgeted amount to fund this program for 2004 and 2005?</p> <p>3) Please provide information regarding the merger of Russian Aircraft Production Enterprises.</p> <p>Agricultural equipment:</p> <p>1) We have some additional questions on OAO Rosagroleasing, a Russian agricultural equipment leasing company whose activities are funded from Russia's budget. This information should be reflected in the text.</p> <p>a) Would the Russian Federation please describe the activities of OAO Rosagroleasing, including annual levels of authorized federal budgetary support for years 2002-2004, the interest rates and other terms of financing which it offers, and the mechanism by which this program allows more affordable purchases of agricultural machinery than would otherwise be available on the market?</p> <p>b) What is the value of sales financed by Rosagroleasing relative to the approximate overall value of purchases of agricultural machinery by Russia's agricultural sector?</p> <p>c) Do Rosagroleasing's programs support export transactions for Russian machinery?</p> <p>d) Is receipt of government financing or subsidized/lower leasing rates contingent upon the purchase or lease of equipment made in Russia?</p> <p>Paragraph 382 : We are concerned that the language in Rev.2 has been changed such that the text no longer recognizes even the theoretical possibility that tariff preferences could be granted by natural monopolies.</p>

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	<p>Paragraph 383 : We question whether the last statement is accurate.</p> <p>Paragraph 384 : The reference to WT/ACC/SPEC/RUS/31 appears to be incorrect. A current and complete subsidy notification for all levels of government has not been provided. With respect to production subsidies, please comment on recent reports that the Russian Federation is planning to provide US\$2.5 billion to assist the Russian aircraft industry.</p> <p>Paragraph 385 : As we commented previously, this paragraph confuses federal government transfers to the regions “aimed at reducing financial disparities” with Members’ concerns that prohibited subsidies (e.g., subsidies contingent upon the use of domestic over imported goods) may be being provided at sub-federal levels of governments. It should be clarified.</p> <p>Paragraph 386 : As noted, we question whether Russia has no export subsidies.</p> <p>Paragraph 388 : We appreciate the recognition that subsidies may be provided through revenue foregone (e.g., tax and customs benefits). With respect to the last statement, “control” over prohibited subsidies is not the goal of the Subsidies Agreement – it is their elimination. The text should be adjusted accordingly.</p> <p>Paragraph 391 : In the second sentence, the phrase “closer to world market prices” should read “closer to market prices.”</p> <p>Paragraph 392 : Cross-references should also be made to the State-owned and State-Trading Enterprise sections of the report.</p> <p>Paragraph 393 : Given the highly technical nature of the rules with respect to export credits, the relevant provisions of the Agreement on Subsidies and Countervailing Measures, and the various dispute settlement reports in which an export credit program was an issue should be closely consulted prior to implementation of any export credit program. We are interested in information in the text on Russia’s plans.</p> <p style="text-align: center;"><u>Elements of a Commitment</u></p> <p>Paragraph 396 : The language in the text of paragraph 396 includes most of the elements necessary for developing a commitment. We suggest the following revision to deal with our concern that we lack current and complete information regarding Russia’s subsidy programs.</p> <p>{396. 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 and regulations to eliminate all prohibited subsidies within the meaning of Article 3 of the WTO Agreement on Subsidies and Countervailing Measures, and Article XVI of the GATT 1994 at the levels of government – including, but not limited to, exemptions, reductions, deferrals or forgiveness of taxes and custom duties to enterprises which were contingent upon export performance or the use of domestic over imported goods from -- as of the date of accession. He further confirmed that such prohibited subsidies would not be introduced in the future, and that export financing and other export promotion policies would be operated in conformity with WTO provisions. [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</p>

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	<p>Federation would administer any subsidy programs in place or established after accession at all levels of government in conformity with the WTO Agreement on Subsidies and Countervailing Measures and that a subsidy notification in accordance with Article 25 of the Agreement all necessary information on programs be notified (if such programs existed) and would 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. He noted that Russia had provided Members with a limited amount of information on subsidies during the accession discussions and confirmed that Russia would provide a draft notification for review covering all subsidy programs at all levels of government prior to accession for review and would comply with its notification obligations under the WTO Agreement on Subsidies and Countervailing Measures immediately upon accession. He also confirmed that the Russian Federation would not invoke any of the provisions of Articles 27, 28, 29 of the Agreement on Subsidies and Countervailing Measures. <u>The Working Party took note of these commitments.</u></p> <p>Additional language may be required for the commitment to provide greater precision on specific supports in the areas of agricultural machinery and aircraft.</p>
398-444	<p>- Technical Barriers to Trade</p>
	<p>[AUS]</p> <ol style="list-style-type: none"> 1. We seek inclusion of an extra sentence in paragraph 398 to expand on the nature and objective of Gosstandart's surveillance of compliance with "national standards". 2. We recommend redrafting paragraph 401 along the following lines: <ul style="list-style-type: none"> "Legislation pertaining to standardisation, metrology and certification is listed in Annex 2. The representative of the Russian Federation noted that this legal framework required products to meet the mandatory <i>technical, sanitary and phytosanitary</i> requirements determined by the Russian Federation. In particular, imports of products into the Russian Federation were restricted if the products in question did not meet the <i>statutory requirements</i>. (delete words thereafter) 3. We note that in paragraph 402 a reference to a list of objectives which may not be legitimate ones under Article 2.2 of the TBT Agreement for the application of mandatory requirements. These objectives include "uniformity in the methods of control and marking", "technical and informational compatibility", and "interchange ability of products". We seek: <ul style="list-style-type: none"> - clarification in the text as to the nature and meaning of these "mandatory" requirements, whether they remain in force, and whether they are captured in the Federal Law "On Technical Regulation". 4. Paragraph 403 indicates that over 50 per cent of state standards were harmonised with international standards and that the overall harmonisation of "domestic standards" with "international standards" was about 35 per cent. We seek: <ul style="list-style-type: none"> - clarification in the text of the difference (if any) between state and domestic standards, and indicate the total number of categories of standards it applies. 5. In paragraphs 406-408, Russia states that Resolution No. 287 of 29 April 2002 substantially reduced the list of good subject to mandatory

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	<p>certification. We seek:</p> <ul style="list-style-type: none"> - an updated list of such goods be annexed to the draft report. <p>6. Paragraph 407 also refers to products whose conformity may be confirmed by conformity declaration. We seek:</p> <ul style="list-style-type: none"> - An updated list of such goods be annexed to the draft report. <p>7. We also recommend Russia provide a separate paper on the types of conformity assessment procedures to be completed for particular types of products (ranging from mandatory certification through to supplier's declaration of conformity), and the nature of those procedures.</p> <p>8. We note references in paragraph 437 to necessary technical regulations being adopted within seven years of the entry into force of the Federal Law on Technical Regulations. We seek:</p> <ul style="list-style-type: none"> - clarification in the text as to the implications for Russia's compliance with the TBT Agreement during this period; - commitment language to the effect that Russia will comply fully with all obligations under the TBT Agreement by the date of accession.
	<p>[CAN] <u>General Comments:</u></p> <p>Russia continues to add important details regarding the framework for, and workings of, its existing approach to the development of technical regulations, standards, and conformity assessment procedures.</p> <p>Plurilateral meetings have allowed Members to determine, nonetheless, that the new laws in this area do not necessarily apply to all product sectors. This is problematic as Members cannot determine which sectors or products are not governed by new laws which are designed to bring Russia into conformity with its WTO obligations under the TBT Agreement.</p> <p><u>Specific Problems:</u></p> <ul style="list-style-type: none"> - In Canada's view, the text does not make clear the existing approaches for specific products categories or sectors (given that we are now aware that the approaches may differ significantly). - The text does not include the list of responsibilities for the new Federal Agency for Technical Regulation and Metrology (Rostechregulation) and the Ministry of Industry and Energy, the federal Agency and Ministry which carry out the main responsibilities related to new federal laws in the area of technical regulations, standards and certification. - The text does not identify the responsibilities of all individual Ministries with TBT responsibilities in key product areas, such as the Ministry of Communications and the Ministry of Health, the powers of these Ministries and how these organizations relate to Rostechregulation and the Ministry of Industry and Energy. - A 7 year transition period is still effectively being proposed. - There is a major gap in the text in the area of accreditation which is particularly critical given that Russia is still developing a federal law on

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	<p>accreditation. It is not known when this law will be approved.</p> <ul style="list-style-type: none"> - Reference is made to a functioning Enquiry Point. Russian officials have been made aware that the Enquiry Point has not been functioning of late. - The Third revision of the Russia accession working party report makes no mention of the new (September 1, 2002) official hygiene norm for all food products produced, imported and sold on the territory of the Russian Federation came into effect (Sanitary-Epidemiological Rules and Norms.SanPiN 2.3.2.1078-01). This regulation introduced a mandatory labelling requirement of GMO products. <p>Canada's position with respect to the labelling of genetically modified (GM) foods is consistent with WTO obligations which state that regulatory measures must be based on scientific principles. Canada requires labelling where the foods have undergone significant nutritional or compositional changes or where there may be health and safety concerns, such as allergenicity. Canada supports a voluntary, industry-based approach to labelling based on how a product was produced if it is not related to the product's characteristics (non-product related process and production methods). In our view, mandatory labelling for non-product related process and production methods may constitute a technical barrier to trade and therefore could be contrary to international trade obligations.</p> <p><u>Possible Solutions and Drafting Proposals:</u></p> <ul style="list-style-type: none"> - Addition of text which describes the responsibilities of Rostech regulation and the Ministry of Industry and Energy. - Addition of text which describes the workings of key Ministries (such as Health and Communications) who have law and regulation making powers in the TBT area. - Greater detail on the Russian system for conformity assessment, especially with respect to when two conformity assessment procedures (certifications) or more are required. - Text which addresses the issue of duplicative technical regulations, including a list of such regulations, as well as details on the work program to eliminate duplicative measures. - Addition of text which identifies which documents Russian accreditation bodies are using to accredit conformity assessment bodies, for example, use of ISO Guide 61, 66, 58. Is Russia intending to use the new international standard ISO/IEC 17011 when it becomes available and, if so, when. - The text should include clarification and rationale regarding the Sanitary-Epidemiological Rules and Norms. SanPiN 2.3.2.1078-01 as noted above.

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	<p>[CHN]</p> <p>1. China would like to propose addition of the following paragraph to Paragraph 407 of the <i>Draft Report</i> (TBT Part): " Upon request of Members, the representative of the Russian Federation committed to publication of the updated English version of the following lists along with the HS Codes description: <i>List of Goods Subject to Mandatory Certification and the List of Works and Services Subject to Mandatory Certification</i> as well as the <i>List of Products Whose Conformity May Be Confirmed by Conformity Declaration</i> on its official website concerning TBT issues. "</p> <p>Reason: The above Lists were mentioned in several places of the <i>Draft Report</i> (TBT Part), including Paragraph 407, and the forms of conformity assessment for the products in the Lists have significant impact on international trade.</p> <p>2. Concepts to be further clarified by the Russian Side:</p> <ul style="list-style-type: none"> - The Russian Federation is kindly requested to elaborate on the following terms as mentioned in the <i>Draft Report</i> (TBT Part) and the Federal Law <i>On Technical Regulating</i> (English version available on Rostechregulation website:www.gost.ru): state standards; national standards; standards of organizations; standards of enterprises; standards of scientific, technical, engineering institutions and other societies; sectoral standards. - Is the word "acts" as mentioned in "acts of a recommendatory nature" (see Paragraph 416 of the Draft Report) replaceable by "documents"? - The terms "declaration of conformity", "conformity declaration" and "supplier's declaration" are used in different places of the <i>Draft Report</i> (TBT Part) [e.g. Paragraphs 407 and 421] . The Russian Federation is kindly requested to confirm whether the all the three terms mean exactly the same thing, and if yes, uniformity of the wording in the <i>Draft Report</i> is suggested. - We understand that the term "certification authorities" mentioned in Paragraphs 404 and 405 should be substituted by "certification bodies". The Russian Federation is kindly requested to confirm this. <p>3. Request for an answer to the following questions concerning laboratory accreditation:</p> <ul style="list-style-type: none"> - Paragraph 421 of the <i>Draft Report</i> (TBT Part) stipulates: with regard to supplier's declaration of conformity, the applicant is required by the Russian Federation to "include in evidentiary materials the reports of researches (tests) and measurements carried out in accredited test laboratory (center)". The Russian Federation is kindly requested to explain whether the "test laboratory (center)" is accredited by the Russian government or by the Russian laboratory accreditation organization. And can they also be those accredited foreign laboratories? Does the Russian government recognize the test results of those laboratories accredited by the foreign accreditation organization that has signed ILAC MRA? <p>4. <u>Request for document:</u></p> <p>China kindly requests the Russian Federation to provide China with copies of the documents listed in ANNEX III of the <i>Draft Report</i>.</p>
	<p>[EC]</p> <p><u>Descriptive part</u></p> <p>This section requires a considerable continuation of a clarification exercise, in particular as regards future plans of the Russian Federation regarding the drafting of technical regulations, the conformity assessment procedures related to those technical regulations, namely the need for re-certification of similar products, the accreditation system and recognition of test results by foreign laboratories. The section need also to be completed with information</p>

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	<p>about the institutional arrangements and the responsibilities of the agencies involved in these activities, namely the administrative appeal system. The main questions raised by the EC are included below. It would be useful to receive as soon as possible information on concrete work-programme for the drafting of technical regulations form the various agencies operating in the TBT field.</p> <p>Questions raised by the EC during the plurilateral meeting on 5 November 2004 include the following:</p> <ul style="list-style-type: none"> - Accreditation (paragraphs 399 and 400) – where is the line between the ministry's and the agency's responsibilities? - Standards (paragraphs 403 and 414) – what is the exact distinction between state, domestic and regional standards? - Market surveillance (paragraph 407) – how does market surveillance work in conjunction with the conformity declaration procedure? - Transparency (in elaboration of technical regulations) (paragraph 409, 9th bullet) – how will the public discussion of draft technical regulations be carried out in practice? - Siting of facilities (paragraph 409) – there is no mention of this (TBTA paragraph 5.2.6 refers) - Complaints procedure (paragraph 409) – there is no mention of this (TBTA paragraph 5.2.8 refers) - Norms (paragraph 419) – why are norms contained in technical regulations? - Quality system certificates (paragraphs. 421 and 422) – it is not clear how these are used in the conformity declaration procedure. - Conformity declaration (paragraphs. 420 etc.) – more detail required. - Radio devices (table 6 of non-paper 40) – not clear which ministries or agencies are involved – also not clear if conformity declaration procedure can apply or not. - Medical devices – which ministry is responsible for what? <p><u>Commitment</u></p> <p>We expect a confirmation that the WTO TBT agreement will be applied as from WTO entry. Actual commitment to be defined at a later stage. Several specific issues will need to be addressed in the commitment, including a number of sector-specific issues (pharmaceuticals, ICT sector; textiles).</p>
	<p>[JPN]</p> <ol style="list-style-type: none"> 1. At the third tiret of paragraph 409, it provides that "International standards and/or national standards could in full or in part as a basis for development of draft technical regulations". In relation to the TBT Agreement, the principle is that mandatory regulations should be developed based on international standards. Therefore, references to "national standards" and "in full or in part" should be deleted and that tiret should read; "International standards should be used as a basis for development of draft technical regulations". The same thing holds true for the second sentence of paragraph 440. 2. Liability aspects contained in "On Technical Regulations" are missing from the description provided in paragraph 409. Therefore, elements contained in Article 40(Coercive Retraction of Products), Article 41(Responsibility for Violation of Rules of Executing of Certification Works) and Article 42 (Responsibility of Accredited Test Laboratory) of "On Technical Regulations" should be included in the Report. 3. In paragraph 411, it provides that "A technical regulation could provide the rules and forms of conformity assessment(including schemes of conformity confirmation)...". The meaning of "A technical regulation "could " need to be clarified. 4. In paragraph 419, it provides that "The Federal Law provided that until the corresponding technical regulations had come into effect, the Government would determine and annually supplement the list of products for which mandatory certification would be substituted by a conformity declaration." With regard to the development of each individual technical regulation, there is "Technical Regulations Development Program for 2004-2005". We would like to clarify whether Technical Regulation Development Program will be elaborated every year from 2006 onward as mentioned above and like to request the Russian Federation to state in the Report that the Russian Federation will publicize the on-going process concerning

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	<p>changes from the mandatory conformity scheme to the Declaration of Conformity scheme in a timely manner.</p> <p>5. In paragraph 421, reference is made to conformity declaration which involves participation of a third party. Paragraph 1 of Article 24 of "On Technical Regulation" provides that Declaration of Conformity shall be carried out using either (a) assuming of supplier's declaration on the basis of own proofs, or (b) assuming of supplier's declaration on the basis of own proof, the proofs obtained with participation of certification body and (or) accredited test laboratory (center). The present draft text of paragraph 421 does not clearly reflect the contents of the Article mentioned above. Therefore, the draft text should be amended accordingly.</p> <p>6. In paragraph 437, it provides that "Mandatory requirements for products,...would not have been adopted within the specified period would cease to be effective." On the other hand, in paragraph 416, it provides that "As of this date and until the issuance of corresponding technical regulations, or should such regulations not be issued by 1 July 2010, the requirements regarding products, were subject to obligatory implementation only to the extent that they ensured protection of human life or health,...". Clarification is required as to the relationship and consistency between the above two paragraphs. In any event, for the sake of clarity, the contents of paragraph 416 should be moved to paragraph 437.</p> <p>7. Since reference is made to technical regulation development program in paragraph 439, "Technical Regulation Development Program for 2004-2005" should be mentioned therein.</p> <p>8. We are informed that under "On Technical Regulations" and upon development of technical regulations, currently imposed duplicative certification requirement of both hygienic approval from the Ministry of Health and Social Development of the Russian Federation in addition to mandatory safety/EMC approval controlled by the Federal Agency for Technical Regulation and Metrology of the Russian Federation on the same good will be abolished with respect to all industrial goods. We would like to clarify the above and these clarified points should be duly reflected in the present section. We would also like to request the Russian Federation to state in the Report that it will publicize the on-going process toward abolishing the duplicative certification requirement in a timely manner.</p>
	<p>[SUI]</p> <p>Paragraph 405 : We can read in paragraph 405 that an "<i>uniform accreditation procedure was applied to both Russian and foreign certification authorities and laboratories</i>". We insist again on this point, asking the Russian Federation not to require an additional Russian accreditation for foreign testing and certification bodies if these bodies are already accredited by a foreign accreditation body participating in the framework of ILAC and IAF. Such a process would be contrary to the ILAC and IAF Cross Border Accreditation policy principles.</p> <p>Paragraph 407 : Paragraph 407 refers to a list of products subject to mandatory certification and conformity declaration (it seems that the list of the products subject to mandatory certification had been reduced by 20% and the list of products for which conformity could be confirmed by conformity declaration had tripled). Switzerland would be grateful if the Russian Federation would provide the members of the Working Party with the latest version of the two lists.</p> <p>Paragraph 437and 438 : Paragraph 437 indicates that all necessary technical regulations have to be adopted within seven years from the date of entry into force of the Federal Law on technical regulation. Thus, there is a transition period up to 2010 to transform all existing mandatory requirements into technical regulations. Could the Russian Federation specify what will happen during these 7 years if a technical regulation is incompatible with the TBT agreement or if someone considers that a technical regulation is inconsistent with the TBT agreement i.e. the regulation is not based on international standards as foreseen in Article 2.4 of the TBT agreement?</p>
	<p>[USA]</p> <p><u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p> <p>Russian legislation/regulations necessary to implement WTO rules are pending for this section.</p>

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	<p>Paragraph 405 : Indicates that foreign authorities and test laboratories accredited in accordance with established procedures (which appear to include compliance with ISO/IEC Guide 65 and Standard 17025) can provide testing and certification for the GOST R certification system. The United States is supportive of approaches that provide national treatment; however, it is our understanding that this is not currently the case.</p> <ul style="list-style-type: none"> - Please clarify whether the information in this paragraph reflects current or future practice, and what relationship it has, if any, to the changes foreseen in the adoption of a new Law on Accreditation. <p>Paragraphs 406, 407, 421, 420, 421, and 422: Since July 1999, Russia has been allowing use of a <i>conformity declaration</i> for certain products subject to mandatory certification. The requirements for this conformity declaration appear to be more stringent than international practice, and different than the new ISO standard on <i>supplier's declaration of conformity</i>. Paragraph 420 indicates registration is required for representatives of foreign manufacturers, as well as a contract ensuring conformity of the product to technical regulations and liability for non-conformity of the delivered products.</p> <ul style="list-style-type: none"> - Please explain the rationale for these requirements. - Does Russia plan to evaluate its approach, with a view to aligning it with the new ISO standard and removing unnecessary impediments to trade? <p>Paragraph 421 : Can Russia confirm that requirements for the submission of test or other data, or quality system registration, are voluntary?</p> <p>Paragraph 419 : We note the assertion “<i>Thus, the list of products subject to mandatory certification could only be reduced, unless otherwise provided by the corresponding technical regulation.</i>”</p> <ul style="list-style-type: none"> - What is the basis for this assertion? If none, we suggest it be deleted. It is our understanding that in Russia’s system, a conformity declaration is one alternative for mandatory certification. Movement between the two approaches to mandatory certification is not a reduction in the list of products subject to this requirement. <p>Paragraph 427 and 399 : Paragraph 427 indicates Rostechreg is now in charge of accreditation and mandatory GOST R certification. Para 399 indicates the Ministry of Industry and Energy (which includes Rostechreg) is in charge of voluntary certification. Please clarify whether Rostechreg is in charge of both mandatory and <u>voluntary</u> certification and if so, include the information in one place.</p> <p>Paragraph 427 indicates conformity assessment procedures in place as of July 1, 2003 would remain in effect until the issuance of new technical regulations.</p> <ul style="list-style-type: none"> - This would appear to contradict Article 46 of the Law on Technical Regulations which provides that during the transition period (7 years from 2003) only those regulations necessary for safety will be enforced. Please clarify. - What happens if there is a disagreement as to the necessity of mandatory conformity assurance? <p>Paragraph 429-434 Covers telecommunications (which is subject to a separate Law).</p> <ul style="list-style-type: none"> - Please review terminology -- reference is sometimes made to telecommunications “facilities” and other times to “equipment” -- to ensure

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	<p>accuracy.</p> <ul style="list-style-type: none"> - In previous drafts, Para. 431 included further information describing the telecommunications facilities -- we found this information useful and suggest it be re-inserted. - Paragraph 433 and 434 contain certain commitments that have yet to be implemented. We would appreciate updates when these commitments are actually implemented (which we expect prior to accession). <p>Paragraph 439 : It would be helpful to update this paragraph and clarify the status and purpose of the technical regulations development program. Precisely what has been approved? Is this a one-time approval or will the annual updates require approval?</p> <p>Paragraph 441 : There appears to be a contradiction between the information contained in paragraph 405 (which indicates foreign bodies can be directly accredited and recognized for purposes of conformity assessment) and this paragraph, which indicates multilateral and/or bilateral agreements were necessary to recognize foreign conformity assessment documents.</p> <ul style="list-style-type: none"> - Russia should provide examples of such agreements. - Please clarify whether there is an option for direct recognition through accreditation. <p>The text should contain a description and clarification of Russia's current system of registration and re-registration of pharmaceuticals and clarification and its plans to reform it to address issues raised by Members, including the fee structure for "expert analysis."</p> <p>In addition, Russia's plans regarding the new "declaration of conformity" system that will replace mandatory certification of pharmaceuticals should be fully described.</p> <p><u>Specific Drafting Suggestions:</u></p> <p>Paragraph 403 : Please revise the reference to fundamental international standards.</p> <ul style="list-style-type: none"> - The TBT Committee has emphasized the need for bodies developing "international standards" for purposes of the TBT Agreement to adhere to certain principles as outlined in the relevant Committee Decision (see G/TBT/1/Rev.8, IX), and we prefer this formulation. The Committee itself has not identified any particular body whose standards are recommended and we are concerned that Russia's approach may be overly restrictive and not allow itself to choose the most relevant and appropriate standard for its purposes. The text should be changed or clarified. - Further, the UN Economic Commission for Europe is a regional body and should not be included in the list. <p>Paragraph 409 : Subpara 10: <i>The developer was required to save the written notices received....</i> We believe <u>comments</u> should replace the term <u>notices</u>.</p> <p>Paragraph 411, 422, 423 and 438: All of these paragraphs contain information on technical regulations that is sometimes conflicting or duplicative. Paragraph 411 is conditional and indicates that a technical regulation <i>could</i> contain conformity assessment requirements. Paragraph 422, 423 and 438 make similar statements but are not conditional.</p> <ul style="list-style-type: none"> - Please clarify and remove redundancies.

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	<p>Paragraph 415 : Suggest the last sentence be deleted, as this is not a reflection of the current situation.</p> <p>Paragraph 422 : Content appears to be redundant with information already provided.</p> <p>Paragraph 423 : This information appears to be redundant and could be deleted.</p> <p>Paragraph 425 : Change “export” to “import.”</p> <p>Paragraph 428 : Second sentence is an assertion and should be deleted.</p> <p>Paragraph 437 : “or reconciled transformed” –please clarify.</p> <p><u>Elements of a Commitment:</u></p> <ul style="list-style-type: none"> - The United States seeks a commitment that the Russian Federation will comply with and fully implement the TBT Agreement upon accession to the WTO and that Russia will amend and/or rescind any existing standard, technical regulation or conformity assessment procedure that is not compliant with the TBT Agreement prior to its accession. - - We also seek specific commitments concerning: <ul style="list-style-type: none"> - communications equipment that are set out in paragraphs 433 and 434; and - confirmation of the elimination of specific NTMs related to TBT identified in the discussion to date.
445-472	- Sanitary and Phytosanitary Measures
	<p>[ARG]</p> <p>Paragraph 445. <i>The representative of the Russian Federation stated that protection of human health was currently regulated by Federal Law No. 52-FZ of 30 March 1999 "On Sanitary and Epidemiological Well-Being of the Population"; Federal Law No. 5487-1 of 22 July 1993 "Fundamentals of Health Legislation of the Russian Federation"; "Regulations of the State Sanitary and Epidemiological Service of the Russian Federation" and "Regulations on State Sanitary and Epidemiological Standardization" approved by Government Resolution No. 554 of 24 July 2000; 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").</i> (This phrase does not seem to be addressed in the SPS Agreement but in the TBT Agreement).</p> <p>Paragraph 453. What is the meaning of "products potentially dangerous for human life and health" (Government Resolution No. 262, dated on April 4 2001). Further, the phrase "Safety of Food Products" mingles with issues governed by the TBT Agreement. Reference to "food safety", a concept recognized by the SPS Agreement, is suggested.</p> <p>Paragraph 457. It is not appropriate to include the following sentence into the SPS section as it deals with environmental and not sanitary certifications: "<i>For imports and transit of controlled cargoes regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora</i></p>

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	<p>(CITES), an additional permit from the CITES agency in the exporting country was required in addition to the required documents (CITES agencies were the Ministry of Natural Resources and the State Committee of the Russian Federation for Fishery – for sturgeon fish species)." The sentence "Imports and exports of pedigree animals, apart from the authorization from the Chief State Veterinary Inspector of the Russian Federation and veterinary certificate, required an "extract from the State registry of selection achievements allowed for use with respect to the imported plant seeds, 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, pedigree animals" for exports, signed by the Deputy Minister of Agriculture of the Russian Federation" " should be included in the Intellectual Property section. The following sentence should not be part of the SPS section but of the TBT one: "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".</p> <p>Paragraph 462. The representative of the Russian Federation stated that pursuant to Federal Law No. 184 FZ of 27 December 2002 "On Technical Regulation" mandatory requirements applied to products would be contained in new technical regulations (general and special). Amendments would be made to the relevant legislation in order to bring it in compliance with the mentioned above Federal law. (The sentence above does not correspond to the SPS section, but to the TBT Agreement).</p> <p>Paragraph 465. As to the new regulations and legislation, it should be made clear that the publication in journals and specialized publications does not replace the commitment to notify the WTO under its procedures and to comply with WTO transparency provisions.</p> <p>Paragraphs 469 and 470: SPS Issues raised by members: Argentina seeks responses to questions of members raised in these paragraphs.</p> <p>Paragraph 472: Recourse to a transitional period of three years for the application of the SPS Agreement</p> <p>The delegation of Argentina would like to express its concern with regards to this paragraph and finds this request unacceptable. Moreover, there is no reason to request such an exception, taking into account that all members do comply with this Agreement, in particular developing countries. Russia does not have a lack of resources, as evidenced by its high levels of domestic support in the amber box. Therefore, paragraph 472 should be deleted and the Russia's commitment should be clearly expressed.</p>
	<p>[AUS]</p> <ol style="list-style-type: none"> 1. We refer to information in paragraph 446, and seek: <ul style="list-style-type: none"> - provision of information not provided in "Annex I"; - clarification as to when sanitary normative legal act and mandatory hygiene requirements on products, production processes, use, storage, etc would be elaborated to comply with the SPS Agreement; 2. We note the statement in paragraph 447 that "under current legislation, an applicant had the right to appeal a decision of Gossanepidnadzor through administrative or judicial procedures." We seek: <ul style="list-style-type: none"> - clarification of what defines an 'applicant' and how administrative and judicial procedures relate to foreign trading partners who disagree with a decision taken by Gossanepidnadzor;

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	<p>3. In paragraph 450 and elsewhere in this section, we note that Russia appears to use the terms "epidemiological examination", "sanitary epidemiological approval", "hygienic assessment" and "hygienic approvals" interchangeably. We suggest:</p> <ul style="list-style-type: none"> - Russia use one term consistently, or otherwise indicate that these terms refer to an identical process and not to multiple requirements or processes. <p>4. We note paragraphs 452-453 concern a state "registration" system for new products produced in Russia or entering Russia "for the first time". We seek clarification in the text as to:</p> <ul style="list-style-type: none"> - what constitutes a "new" product in the context of this legislation; - the procedures and processes (including fees or formalities involved, approval periods, documentation requirements, examinations etc) required to obtain state registration in these cases; - how state epidemiological assessment and state registration of products "constituted a single process"; - the policy justification for a separate state registration system given imports are already subject to a "sanitary and epidemiological examination" referred to in paragraph 450; - what is meant in practical terms by the sentence in paragraph 453 that a "registration certificate was issued... <u>for the period of supplies in the case of imported products</u>". In particular, we seek clarification as to whether the "period of supplies" refers to individual cargoes or supply over an extended period. <p>5. Paragraph 455 refers to important provisions concerning lodging appeals against decisions taken by the officials of the State Veterinary Service. We seek clarification in the text of the following issues:</p> <ul style="list-style-type: none"> - the rights of foreign trading partners to lodge appeals against decisions taken by officials of the State Veterinary Service, given the statement that appeals can only be taken "by a veterinary inspector of a lower authority to a veterinary inspector of a higher authority..". <p>6. Paragraph 458 refers to the possibility of "contemplating the presence of Russian Veterinary inspectors to control compliance of raw meat consignments" where a "bad epizootic situation" existed. We seek reference in the text to:</p> <ul style="list-style-type: none"> - legal or regulatory instruments providing authority to negotiate such arrangements and information on the provisions of those instruments; - specific information on the definition of a "bad epizootic situation", including any relevant criteria; - clarification as to whether Russian legislation or regulations allows for importation of raw meat from another country to be made <u>conditional upon</u> placement of a Russian inspector in the export country; - clarification as to whether Russian legislation or regulations provides for exporting countries to meet Russia's standards in relation to raw meat by other means than the placement of a Russian inspector in the export country (as provided for under Article 4 of the SPS Agreement on Equivalence). <p>7. We seek new text cross-referencing a measure listed in paragraph 182 that the Veterinary Service require that importers obtain an import permit, in addition to veterinary and sanitary certification requirements to import beef, pork and poultry into the Russian Federation under tariff rate quotas. We seek inclusion in the text of:</p>

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	<ul style="list-style-type: none"> - the procedures, processes, fees and other formalities associated with obtaining this import permit how they meet the disciplines of the WTO Agreement on Import Licensing Procedures; - the period of validity of an import permit, requirements for obtaining a permit, and grounds for refusal of a permit application; - an explanation of how these requirements differ from those associated with obtaining a general: (i) "hygienic approval" in order to export food and animal produce to Russia; and (ii) import certificates under which exporting countries already export animal products to Russia. <p>8. We note our expectation that eventual commitment language in paragraph 472 should entail a commitment from Russia to meet the provisions of the SPS Agreement upon accession and with no recourse to a transition period.</p>
	<p>[BRA] Brazil expects a commitment by the Russian Federation to fully apply the WTO Agreement on Sanitary and Phytosanitary Measures upon its accession.</p>
	<p>[CAN] <u>General Comments:</u></p> <p>The three year transition period requested by Russia is unacceptable to Canada.</p> <p>The SPS Agreement encourages all WTO Members to implement science-based regulations as an overarching principle of their regulatory systems. It is Canada's view that the transparency provisions of the SPS Agreement are a cornerstone to its effective implementation. Through the notification process adopted by the SPS Committee, Members can attain a greater degree of predictability and clarity with respect to the adoption of SPS measures by trading partners.</p> <p><u>Specific Problems:</u></p> <ul style="list-style-type: none"> - In Canada's view, a 3 year transition period is not acceptable and Russia should fully implement the WTO SPS Agreement upon accession. Russia has not provided satisfactory answers to this issue. - Canada seeks clarification whether SPS Checklist Articles 2 and 3, TBT/SPS Enquiry Point and Transparency provisions, are now in effect. - Canada notes that the internet site for the TBT/SPS Enquiry Point (http://www.ricwto.ru) provided in the Draft WP Report is not functioning. - Canada notes that the websites for the Principal Computing Centre of the Ministry of Agriculture (www.aris.ru) and the Ministry of Health Regulation and Certification Center (www.crc.ru) provided in the SPS Checklist Articles 2 and 3, TBT/SPS Enquiry Point and Transparency provisions, are available in the Russian language only. - Canada notes that the SPS Checklist Article 6, Harmonization, makes reference to EC documents and EPPO as relevant standards. These are not relevant international standards for the purpose of Articles 3.1, 3.3 and 3.4 of the SPS Agreement. <p><u>Possible Solutions and Drafting Proposals:</u></p> <ul style="list-style-type: none"> - Addition of commitment language that demonstrates in no uncertain terms that Russia will fully implement the SPS Agreement upon accession. : " Russia confirms that from the date of accession, its laws and regulations will be applied in full conformity with the provisions of the WTO

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	<p>SPS Agreement, and that these provisions will be established in Russia's legal framework".</p> <ul style="list-style-type: none"> - Further clarity on the SPS Checklist Articles 2 and 3, TBT/SPS Enquiry Point and Transparency provisions, indicating whether these are now in effect. - Canada encourages Russia to consider implementation of a TBT/SPS Enquiry Point and notification points as well as Transparency measures, which would be available in the English language, prior to accession, as some previous acceding countries have done. - Canada encourages Russia to make reference to relevant international standards in Article 6, Harmonization, of the SPS Check-list.
	<p>[CHN]</p> <p>1. Request for two lists</p> <ul style="list-style-type: none"> - It is suggested that the "Goods Nomenclature of Foreign Economic Activity" promulgated by the Veterinary Department of the Ministry of Agriculture on 16 May 2000 (Letter No.13-8-01/3009) and 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", approved by the Ministry of Agriculture on 19 March 1999 (as amended on 25 December 2001) should be renewed in time and publicized on the official website in English. <p>2. Request for further clarification of the meaning of "State Registration of New Foodstuffs, Materials and Items"</p> <ul style="list-style-type: none"> - The meaning of "the State Registration of New Foodstuffs, Materials and Items" referred to in Paragraph 452 is not clear. What is the difference between it and the procedure for sanitary epidemiological approval or certificate registration on the basis of sanitary epidemiological assessment result? Is the registration still necessary when there is already sanitary epidemiological approval document or a registered certificate? Would it make the process of the inspection and quarantine on the foreign products more complicated? Further explanation would be appreciated. <p>3. Request for further clarification concerning the harmonization of the legal surveillance system of veterinary measures with the SPS Agreement.</p> <ul style="list-style-type: none"> - The legal surveillance system of veterinary measures mentioned in Paragraphs 454, 456 and 459 is quite complicated. Pursuant to the requirement of article 2 of the SPS Agreement, the Russian Federation is kindly requested to provide further explanation concerning the legislation and the standards on the surveillance of import animals and products of animal origin. In addition, further clarification is requested on whether the Russian animal health standards on which these documents are based are harmonized with the international standards.
	<p>[EC]</p> <p>The EU expresses its concern about the lack of progress in this section. The descriptive part will need a considerable improvement and the commitment will need to be elaborated after further discussions. As for TBT, it would be useful to receive as soon as possible information on concrete proposals for the elaboration of technical regulations.</p> <p>General comments</p> <ul style="list-style-type: none"> - The EU considers the SPS agreement should be applied as from WTO entry. The EU has difficulties in understanding the justification of transitional periods for the application of principles such as transparency, proportionality and regionalisation. - The current situation as regards import conditions for animal products raises serious concerns in view of the SPS agreement. According to the SPS Agreement measures which are in compliance with the relevant international standards are deemed consistent with the SPS Agreement (Article 3(2)). However, WTO Members may introduce measures which go beyond the relevant international standards provided that such measures are scientifically justified (Article 3(3)). The SPS Agreement refers to the OIE Animal Health Code (terrestrial and aquatic codes) as

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	<p>the relevant international standard for animal health and zoonoses. On a number of occasions the Russian animal health conditions for imports of animal products go beyond the recommendations of the OIE Code 2004. In these cases Russia should provide scientifically valid justification for its measures. Up to now no such justification has been provided.</p> <p>A non-exhaustive list of inconsistencies which the EU considers will need to be resolved includes:</p> <ul style="list-style-type: none"> - <i>Implementation of the regionalisation and transparency rules under the SPS agreement</i> - <i>Horizontal requirements in violation with the SPS Agreement:</i> African swine fever (ASF); foot and mouth disease (FMD); Premises and administrative territories officially free from infectious animal diseases; - <i>Product specific requirements in violation with the SPS Agreement:</i> bovine meat; pig meat; poultry meat; milk and milk products; feed and feed additives - <i>Resident inspectors:</i> reliance on certifying officers of exporting members and only carrying out occasional inspections in the exporting countries is common practice applied in international trade. Permanent inspections are more trade restrictive than necessary. The EU accordingly invites Russia to rely on certifying officers of the EU Member States for their exports to Russia and to eliminate the practice of resident inspectors in EU Member States.
	<p>[JPN]</p> <p>1. The contents of the draft text of the present section as a whole do not seem to be clear. Therefore, further work is required to improve them. We would like to request the Russia Federation to ensure that all SPS related measures are fully in consistent with the WTO agreement upon its accession to the WTO. In this regard, we would like to request the Russian Federation to make a commitment that it will fully implement the SPS Agreement without any transition period.</p> <p>2. In paragraph 457, there is a description that imports of cargoes controlled by the State Veterinary Surveillance Agency are restricted to designated cross-border checkpoints. It should be ensured that such checkpoints are not undue trade barrier to imports of cargoes. In this connection, we would like to seek clarification from the Russian Federation on the number of such checkpoints established all over the Russian Federation, any future plans of increasing the number of checkpoints and concrete time frame contained in these plans if any.</p> <p>3. In paragraph 458, the possibility of contemplating the presence of Russian Veterinary Inspectors in countries with a bad epizootic concerning transmissible animal diseases is indicated. We would like to seek clarification from the Russian Federation on the current state of play concerning the above mentioned presence of Russian Veterinary Inspectors in foreign countries. (e.g. Is there any case where such Inspectors are actually at present? Is a meat consignment, in reality, not eligible for shipment to the Russian Federation unless such Inspectors are not at present in these countries?)</p> <p>4. In paragraph 464, reference is made to legislation concerning technical regulation. And reference is also made that such legislation fully complies with Federal Law No.184-FZ and that the requirements of this Law are based on the provisions of the SPS Agreement. Japan is of the view that what the Members wish to seek a confirmation from the Russian Federation is its commitment to the effect that all legislation pertaining to technical regulations will be fully consistent the SPS Agreement. Therefore draft text of this paragraph should be amended accordingly. Furthermore, reference to ensuring transparency in procedures, for example reference to procedures for recruiting public comments, etc. should be included.</p>
	<p>[NOR]</p> <p>We seek a commitment that the Russian Federation would fully apply the SPS Agreement upon accession without recourse to any transitional period.</p>
	<p>[USA]</p> <p><u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p>

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	<p>Despite numerous Working Party discussions of its SPS regime, Russia's activities in this area remain problematic.</p> <p>Russian legislation/regulations necessary to implement WTO rules are pending for this section.</p> <p>Please provide a copy of the government-approved technical regulations development program (see paragraph 439). In particular, Russia should provide a list of SPS measures pending review under the Law on Technical Regulations.</p> <p>Please provide information on any additional legislation that is intended to bring the SPS regime into compliance with the WTO SPS Agreement.</p> <p><u>Specific Drafting Suggestions:</u></p> <p>It is difficult to suggest drafting changes for the current SPS section, as Russia has not provided a clear picture of its goals for its future SPS regime. However, given the overlap between the TBT and SPS sections of the Draft Working Party Report and their relationship with the "Law on Technical Regulation," we suggest taking a similar organizational approach in terms of presenting the factual basis of the regime, a discussion of Member's concerns, and Russia's commitments. We suggest the following approach:</p> <ul style="list-style-type: none"> - Identify the federal authorities responsible for food safety, plant and animal health; - Identify the relevant legal basis for Russia's SPS requirements; - Explain the procedures for SPS regulation of domestic production, imports, and exports in each of the three areas; and - Develop a section that explains how Russia's SPS system will be revised under the new Law on Technical Regulation , both with respect to the legislative basis (e.g., does the new law supercede previous legislation or is it in addition to prior normative acts?) and with respect to how Russia's SPS regime will be brought into compliance with the SPS Agreement. In this section: <ul style="list-style-type: none"> - Russia will need to explain, step by step (i.e., based on the framework of the SPS checklist), and demonstrate how the new law and implementing regulations ensure that Russia's SPS regime meets these requirements; and - The text should also reflect to what extent the reorganization of Russia's government in 2004 (i.e., Non-paper 40) has affected Russia's SPS regime and Russia's efforts to comply with the WTO SPS Agreement. - Maintain the information in Rev.3 of the draft Report on WTO Members' comments and questions and add more information on how Russia will respond to those specific concerns. - Include the list of all existing Russian SPS measures (e.g., Veterinary Orders, Ministry of Health requirements) and explain how they will be addressed in the "Technical Regulations Development Program" (see paragraph 439 of WT/ACC/SPEC/RUS/25/Rev. 3). Please include information on the timeline for review and revision of SPS measures for compliance with the WTO SPS Agreement. <p><u>Elements of a Commitment</u></p> <ul style="list-style-type: none"> - That the Russian Federation will comply with the SPS Agreement upon accession to the WTO and will amend its laws and rescind any existing SPS measures that do not comply with the SPS Agreement requirements prior to its accession; and

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	- Additional commitment language relevant to specific SPS issues that are not definitively clarified may be necessary.
473-487	- Trade-Related Investment Measures
	<p>[AUS] We note the extensive redrafting of this section. We seek:</p> <ul style="list-style-type: none"> - the addition of commitment language on the removal of the local content requirement for products and services utilised in energy projects subject to production sharing agreements (PSAs). This constitutes a TRIM within the meaning of paragraph 1(a) of the Annex of the Agreement on Trade-Related Investment Measures that is required to be eliminated under Article 2 of the Agreement. - clarification in the text as to whether Russia still allows importation of certain polished diamonds on favourable terms on the condition that those diamonds have originated from its own production of raw diamonds. If our understanding of the nature of this measure is correct, we seek reference to the fact that it constitutes a TRIM within the meaning of paragraph 2(a) of the Annex of the Agreement on Trade-Related Investment Measures that is required to be eliminated under Article 2 of the Agreement.
	<p>[CAN] <u>Specific Problems:</u></p> <ul style="list-style-type: none"> - Canada is seeking a clear commitment from Russia that it will eliminate any measures inconsistent with the WTO TRIMS Agreement, and apply the TRIMS Agreement without recourse to any transition period. - Some of Russia's current regulation is potentially not compliant with the TRIMs agreement. <p><u>Possible Solutions and Drafting Proposals:</u></p> <ul style="list-style-type: none"> - Russia needs to confirm that the square brackets around paragraphs 486 and 487 will be removed and the following changes will be made to the text: <p>486. [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. <i>Specifically, Russia confirms that it will terminate or amend the following legislation to bring it into line with the TRIMS Agreement:</i></p> <ul style="list-style-type: none"> - <i>Federal Law No. 225-FZ of 30 December 1995 "On Production Sharing Agreements (as amended of 6 June 2003)"</i> - <i>Presidential Decree No. 135 of 5 February 1998 "On Additional Measures to Attract Investments for Development of Domestic Car Making"</i> - <i>Government Resolution No. 413 of 23 April 1998 "On Additional Measures to Attract Investments for Development of Domestic Car Making".]</i> <p>487. [The representative of the Russian Federation confirmed that, from the date of accession, the Russian Federation would conform with the provisions of the Agreement on Trade-Related Investment Measures, and in particular would not conclude new agreements with foreign investors which contain provisions contrary to those prohibited by the TRIMs Agreement. The Working Party took note of this commitment.]</p> <ul style="list-style-type: none"> - Canada also proposes the following change to the text: <p>484. In response to members of the Working Party's concerns regarding the aircraft sector, the representative of the Russian Federation</p>

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	<p>noted that Government Resolution No. 574 of 2 August 2001 "On Certain Issues of Regulation of Temporary Imports of Aircraft" superseded Government Resolution No. 716 of 7 July 1998 "On Additional Measures of State Support for Civil Aviation in Russia" and terminated the full exemption from customs duties and taxes for temporary import for aircraft, spare parts and engines and simulators which were imported under investment agreements. No investment agreements had been concluded since the adoption of Government Resolution No.574 of 2 August 2001 "On Certain Issues of Regulation of Temporary Imports of Foreign Made Aircraft". Russia confirms that Government Resolution No. 574 of 2 August 2001 "On Certain Issues of Regulation of Temporary Imports of Aircraft" is in full conformity with the provisions in the TRIMs Agreement.</p>
	<p>[EC] <u>Descriptive part :</u> Further discussions of substance are necessary on cars, PSAs and aircraft. We invite Russia to provide further precisions as to how it intends to comply with the TRIMs Agreement/GATT. On cars, we note recent developments/plans concerning customs duties for imports of components used for assembly in Russia. On PSA, we noted Russia's explanation during the last meeting of the WP that only a very small part of PSAs would need to be adapted to bring it into conformity with the WTO and invite Russia to provide more precision in this respect.</p> <p><u>Commitment:</u> Our position is reflected in the commitment proposed by Members. This is a standard commitment in all accessions and we have so far not found justifications to do otherwise.</p>
	<p>[NOR] - <i>Production Sharing Agreements</i> We thank the Russian Federation for the factual information provided on the Production Sharing Agreements in paragraphs 475 – 481. We would, however, appreciate further information about the current policies in the Russian Federation with regard to the use of Production Sharing Agreements. We also seek a confirmation that the Russian Federation would not enter into any new Production Sharing Agreements beyond the three existing agreements, and that the PSA system will be abolished at the latest when these agreements are terminated.</p>
	<p>[USA] <u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p> <p><i>Production Sharing Agreements</i></p> <p>Paragraph 475 : Any tax, customs or other benefits that may be provided pursuant to the PSA law need to be explained Although the draft report makes general reference to the PSA law in paragraph 475, it omits the phrase "tax benefits" from the list of considerations provided to investors under PSAs from the sentence which defines "production sharing agreement."</p> <p>Paragraph 477 : We note that Russia has indicated in the past that there were no PSAs established under the 1995 PSA law. Regarding the three existing PSAs discussed in the text of this section:</p> <ul style="list-style-type: none"> - Did the agreements negotiated prior to the PSA law require the purchase of Russian-origin goods? Was exporting mandatory for the PSAs prior to Law 225-FZ? The current text does not make this clear. - If giving such preferences to Russian goods are optional, please confirm whether there are any clauses in those agreements that impose additional requirements or reduce benefits in cases where the option to give preference to Russian goods is not chosen.

Paragraph No.	Comment
	<p>Paragraph 478 : This paragraph appears to indicate that Law 225-FZ does not override the provisions of earlier PSAs.</p> <ul style="list-style-type: none"> - Is this correct? What is the relationship between the provisions in the pre-1995 PSAs and the 1995 PSA law with respect to any requirements to purchase Russian-origin goods? <p><i>Domestic Car Industry</i></p> <p>Paragraph 482 : This states that the «term of the preferences» could not go beyond the term specified in the contract for the investment project, or go beyond 7 years.</p> <ul style="list-style-type: none"> - Please provide information on when the term of preference ends for each investment agreement negotiated. - Please provide up-to-date information on any new agreements signed between the Russian Government and foreign automakers under terms of Decree #135 and Government Resolution 413, including any agreements signed in 2004, so that the listing remains comprehensive. - Please re-confirm the validity dates of any automobile industry agreements listed in paragraph 482. Our understanding is that under relevant regulations (Decree #135 and Government Resolution 413), agreements are valid for 7 years from the date when bonded warehouse licenses are granted and operational. - Please include language (either narrative or a chart) specifying the progression of local-content thresholds required under terms of Decree #135 and Government Resolution 413, as well as definitions used for determining “local content” under those measures. <p>Paragraph 483 : What is the significance of foreign car-manufacturers not being required to incorporate in Russia? Please explain « freezing » the conclusion of new contracts.</p> <p>Paragraph 484 : Cross-reference should be made to discussion of Decree No. 466 in the “Industrial policy, including subsidy policies” section of the draft WP Report.</p> <p>We note that material describing the “Concept of the Russian Car-Making Industry” has been deleted. If the “Concept of the Russian Car-Making Industry” does not envision establishing foreign investment rules, a short description of the “Concept” should be provided in a more appropriate section, e.g., “Industrial policy, including subsidy policies” section of the draft WP Report or in Russia’s subsidy notification.</p> <ul style="list-style-type: none"> - We ask Russia to report on whether this “concept” has been implemented, and to confirm that there are no benefits conferred under this program, especially in exchange for investment commitments. <p><i>Aircraft</i></p> <p>Regarding aircraft, there will need to be a full discussion and commitment regarding the new aircraft leasing program pursuant to Government Decree No. 466 (June 26, 2002) and further intentions with respect to offsets, if any. The text relating to aircraft should be moved to the section of the draft WP Report on “Industrial policy, including subsidy policies and export subsidies”, or, at a minimum cross-referenced.</p>

Paragraph No.	Comment
	<p><u>Specific Drafting Suggestions:</u></p> <ul style="list-style-type: none"> - Based on current information available, nothing requested at this time. <p><u>Elements of a Commitment:</u></p> <p>Pending: Paragraph 487 provides a basis for discussion and may need to be supplemented to address TRIMS-inconsistent provisions in the PSA law, auto decree, and the aircraft sector, including offset policy, if any.</p>
488-510	<p>- State-Trading Enterprises</p>
	<p>[AUS]</p> <p>1. We welcome Russia's statement (paragraph 499) that Alrosa no longer retains exclusive rights. However, we seek clarification in the text as to:</p> <ul style="list-style-type: none"> - Alrosa's current role in the activities of diamond production and export, and its rights to export diamonds to the world market or sell their products domestically; - whether other companies enjoy the same rights as Alrosa, and if so, what rights and on what basis; - whether Alrosa and other selected companies enjoy rights to import polished diamonds on favourable terms, on the condition that those diamonds originated from its own production of raw diamonds. <p>2. We also request Russia address questions/comments we have raised in Attachment A on the general sphere of regulation of precious metals and stones.</p>
	<p>[CAN]</p> <p><u>Specific Problems:</u></p> <ul style="list-style-type: none"> - Canada is concerned with paragraph 505 of the Russian Working Party Report regarding the provision of exclusive rights to Russian STEs involved in the importation/exportation of ethyl spirits. We believe that, as drafted, it questions Russia's ability to create WTO consistent STEs with exclusive rights, instead of addressing the appropriate issue of whether the exclusive rights that have been granted to the STEs are being exercised in a manner consistent with the obligations of GATT Article XVII. <p><u>Possible Solutions and Drafting Proposals:</u></p> <p>Canada would like paragraph 505 to be redrafted as follows:</p> <ul style="list-style-type: none"> - Regarding <i>the</i> concerns of some Members <i>about the way in which state trading</i> enterprises which were selling alcohol <i>might be exercising their</i> exclusive rights, the representative of Russian Federation stated that Russian legislation provided the possibility, for some enterprises, of obtaining exclusive rights for export/import of ethyl spirit.

Paragraph No.	Comment
	<p>[EC] <u>Descriptive part</u> Further discussions of substance are necessary, including on the status of Gazprom.</p> <p><u>Commitment</u> We note a potential divergence of views on the WTO requirements in this area and consider a substantive discussion on these requirements and their coverage would be necessary prior to further drafting of commitments. The commitment as proposed by Members would benefit from some drafting precisions.</p>
	<p>[JPN]</p> <ol style="list-style-type: none"> 1. In paragraphs 493-495, explanations on prices for gas supplied by Gazprom are provided. Some of these explanations seem to be duplicative with the description in paragraphs 74-77 of the section of "Pricing Policies". Therefore, Japan is of the view that there is much room for streamlining the contents by making a cross-references. 2. Since there are voluminous factual references to state trading enterprises in each field throughout the section, we need to reduce the volume of these references in order to maintain a fair balance with the volumes of other sections. 3. Reference is made to unitary enterprise in the section of "State Ownership and Privatization"(paragraphs 56 and 58). However, unitary enterprises themselves do not seem to be directly related to privatization which is the subject of the present section. Therefore, it may be appropriate that reference to unitary enterprises be consolidated in this present section and that only a short and concise language on them together with a cross-reference may be included in the section of "State Ownership and Privatization". 4. The last sentence of paragraph 506 is duplicative with paragraph 508. Therefore adjustment is required. 5. We are aware that there are different views among the Members on the nature and status of Gazprom. Nevertheless, while it provides in paragraph 490 that "the Russian Federation noted that Gazprom could not be considered as a state trading enterprise", at the end of paragraph 494 it also provides that "Gazprom's commercial activity was fully in line with Article XVII of GATT." Therefore, such language needs to be reviewed from the point of maintaining consistency of the contents therein.
	<p>[SUI] Paragraph 500 and 501 (government-to-government barter trade) : Since the expiry of the exclusive rights on 31 December 1995 in the context of bilateral barter trade, the draft report on the working party states that the Russian Federation does at present not conduct any barter trade with CIS countries. Is this also true <u>for all other countries</u>?</p>
	<p>[USA] Almost no information has been provided in the current section on <u>State ownership and privatization</u> of WT/ACC/SPEC/RUS/25/Rev.3 on state-owned enterprises. In addition, the number of state-owned firms discussed as state trading enterprises has been sharply restricted and the discussion of state-owned and state trading enterprises has become substantially entwined during Working Party deliberations.</p> <p>We suggest taking the current section on <u>State-trading enterprises</u> and placing it and other information addressing state ownership and state-trading in an expanded section on "<u>State-owned and State-trading enterprises,</u>" then renaming the other section (originally called <u>State ownership and privatization</u>) "<u>Privatization.</u>"</p> <p><u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p>

Paragraph No.	Comment
	<p>As noted in earlier discussions, the report should identify and describe the activities of the Russian Federation’s state-owned, as well as its state trading, enterprises. In this combined section, there should be a concise description of Russia’s state-owned sector and information on STEs, including but not limited to the following:</p> <ul style="list-style-type: none"> - The sectors of the economy where SOEs and STEs are participants; - Information on the scope of state ownership in these sectors and overall, e.g., on the relative position of SOEs and STEs in GDP and trade; - The list of state-owned enterprises not yet privatized, particularly those (1) in the agricultural sector, (2) engaged in international trade, or (3) that compete with imports. In particular, we seek information on firms such as Aeroflot, Alrosa, TVEL and additional information on the operations of Gazprom and other STEs and SOEs; and - Concerning unitary enterprises, the text should be expanded to include the tables provided earlier in WP discussions by Russia describing the share of imports/exports and production of state unitary enterprises. <p>Paragraph 489 : Please explain how the Russian Federation will ensure that STEs established under Article 26 of the Foreign Trade Activities Law operate in a non-discriminatory manner and make purchases and sales based on commercial considerations?</p> <p>Paragraphs 502-504 : The state unitary enterprise Federal Food Market Agency (FFMA) appears to operate Russia’s grain intervention system and maintain grain reserves, exclusively and at the behest of the Government, using state funds to do it. This would appear to be an exclusive right that has a marked impact on prices.</p> <ul style="list-style-type: none"> - This concern should be reflected in the text, and further information should be provided by Russia on this enterprise and its operations. <p>Paragraph 505 : Regarding unitary enterprises and import/export of ethyl alcohol, under the law, these enterprises may exercise special rights and thus would be STEs. The fact that they are not operating on an exclusive basis does not preclude that from occurring in the future and thus raises concerns.</p> <ul style="list-style-type: none"> - This concern should be reflected in the text. <p>Information on Gazprom for the text:</p> <p>Paragraph 493 : Several additional facts should be added to this paragraph:</p> <ul style="list-style-type: none"> - Gazprom is now, or will shortly become, 51 percent government-owned. - Gazprom has a monopoly on all gas exports outside the Commonwealth of Independent States. (See most recent OECD Economic Survey of the Federation of Russia, p. 131). (See also, U.S. comments on <u>Quantitative Export Restriction</u> section.) - Despite the large disparity between the regulated domestic price and Gazprom’s export price, Gazprom exports approximately 25 percent of its production and sells 75 percent of its production domestically. - The paragraph should also include a reference to the November 2003 World Bank study (per U.S. comments on <u>Pricing Policies</u> section: “According to a detailed examination of the costs required for production <i>and sustainability</i> of production of natural gas, the World Bank estimated Gazprom’s full long run marginal cost of producing natural gas at \$35 to \$40 per thousand cubic meters.”) - The text should reflect that Gazprom, as described in its annual reports, directly or indirectly, owns companies in the fertilizer industry and

Paragraph No.	Comment
	<p>elsewhere, e.g., Gazprom's substantial holdings in such sectors as banking, insurance, agriculture, mass media, construction, and other energy sectors (e.g., electricity or nuclear power). (See most recent OECD Economic Survey, p. 131.)</p> <p>Paragraph 494 : This paragraph as currently drafted distorts the manner in which the regulated price of natural gas is determined and therefore should be revised. The implication that the regulated price of gas is determined in accordance with supply and demand or that Gazprom determines "the levels of internal calculated prices" does not appear to be borne out by the facts. We question the assertion that Gazprom's costs in 2004 were \$28 per tcm. This statement appears at odds with independent estimates of Gazprom's costs, including the study performed by the World Bank (issued in November 2003).</p> <p>In addition, as noted in the U.S. comments in the <u>Pricing Policies</u> section, Gazprom appears to have entered into a long-term contract to purchase natural gas from Turkmenistan at \$44 per thousand cubic meters in April 2003. If Gazprom is able to produce gas profitably on a sustained basis over the long term at \$28 per tcm, logically, absent information to the contrary, a question can be raised as to whether Gazprom is acting in a manner consistent with commercial considerations.</p> <p>According to the most recent OECD Economic Survey (p. 132), the domestic gas market in Russia operates under a rationing mechanism with market-based activity at the fringes. Rationing is the result of artificially low regulated gas prices. According to the OECD, Gazprom has all the relevant information about production, pipeline capacity, and export commitments. Gazprom informs consumers of their quotas for the coming year. Any additional gas that consumers need must be purchased at higher, unregulated prices. Generally, the unregulated price is 30 to 40 percent higher than the regulated price.</p> <ul style="list-style-type: none"> - Paragraph 494 should be redrafted to describe Gazprom's pricing and delivery of natural gas based on historical usage and how firms deal with shortfalls of state-allocated natural gas at the regulated price. This paragraph should include detailed information on this practice, including the relative percentage of consumption by enterprises of gas at the regulated and at the non-regulated price should be provided as well as prices for unregulated gas. - Finally, the text should note that during discussions of the Working Party, the Russian representative advised Members that Russia will increase substantially the quantity of natural gas sold at the unregulated price in the process of its plans to reform the natural gas sector. <p>Para 495: Cross-reference should be provided to the Industrial Policy, including subsidy policies section. Also, in light of the rationing process described above, please describe the extent to which a specific enterprise or industry (see Article 2 of the Agreement on Subsidies and Countervailing Measures) benefits from the allocation of gas at the regulated price</p> <p><u>Specific Drafting Suggestions:</u></p> <p>Add the following text to deal with the issue of Svyazinvest:</p> <p><u>498bis. Some Members noted that their concerns regarding Svyazinvest related to the purchase of goods by a state-owned enterprise engaged in commercial activities. Requirements to purchase goods from a certain producer raised concerns regarding whether the company's practices complied with Articles III and XVII of GATT 1994.</u></p>

Paragraph No.	Comment
	<p><u>Elements of a Commitment:</u></p> <p>The text of paragraph 509 is a good starting point for development of a commitment applied to SOEs and STEs with the following elements:</p> <ul style="list-style-type: none"> - that SOEs and STEs will make any purchases or sales not for the government’s own use or consumption solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale; - that SOEs and STEs shall afford the enterprises of other Members adequate opportunity, in accordance with customary business practice, to compete for participation in purchases from or sales to Russia’s state-owned enterprises and state trading enterprises; and - that any restrictions on exports of domestic materials to ensure essential quantities of such materials to a domestic processing industry shall not operate to increase the exports of or the protection of such domestic industry.
511-526	- Free Zones and Special Economic Zones
	<p>[EC]</p> <p><u>Descriptive part</u></p> <p>Further clarification are necessary following new draft legislation on the SEZ for Kaliningrad and on the potential use of SEZ provisions in other areas of the customs territory of the Russian Federation. We remain concerned about the potential scope of SEZs and the WTO compatibility of the regime applicable for these potential SEZs. We consider that it is insufficient to state that e.g. Magadan has no SEZ in operation.</p> <p><u>Commitment</u></p> <p>A commitment will need to include an obligation to establish, maintain and implement/administer SEZs in conformity with the relevant WTO disciplines, and that the federal government will look after correct enforcement of WTO disciplines in these zones. This is generally covered in the commitment proposed by Members.</p>
	<p>[JPN]</p> <p>In paragraph 512, privileges pertaining to SEZ are listed and exemption from trade remedy measures and other measures is listed as one of these privileges. We would like to seek clarification from the Russian Federation on the detail of such exemption. We are concerned about, for example, the situation where, in the application of a safeguard measure, trade circumvention might be caused, i.e. such goods subjected to the application of safeguard measures might be transferred to the other customs territories of the Russian Federation through a foreign company established in SEZ. We would like to seek clarification from the Russian Federation on the above mentioned points.</p>
	<p>[USA]</p> <p><u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p> <p>Paragraph 511 : It remains our understanding that the Magadan FTZ is operating. Please clarify this in light of the statements indicating otherwise.</p> <p>Paragraph 512 : Concerning the conditions under which exemptions from trade remedy measures and other measures on non-tariff state regulation of foreign trade: please define “manufactured” for the purposes of eligibility for this benefit, e.g., would poultry or other meats lightly processed meet the criteria for “manufactured” in the FTZ?</p> <p>Concerning privileges for Russian and foreign banks granted in connection with the activities on the implementation of the “Federal State Programme</p>

Paragraph No.	Comment
	<p>for the Development of the Special Economic Zone in the Kaliningrad Region:”</p> <ul style="list-style-type: none"> - The reference is unclear. The privileges are provided for in the “programme” but apparently not in subsequent legislation. Please clarify the situation in the text. <p>Paragraph 524 : The information in this paragraph on the Magadan SEZ appears to contradict the statement in paragraph 1 that the Magadan SEZ is not operational. The meaning of the last sentence is not at all clear. What are the limitations that are referred to in the text?</p> <p>We understand that President Putin has directed the Government to draft legislation on establishment of special economic zones aimed at fostering high technology industries.</p> <ul style="list-style-type: none"> - Please provide information on Russia’s plans for the creation of such zones including information on location, potential benefits, timeframe for establishment of the zone, firms’ eligibility and obligations, and on the rules governing importation and exportation (e.g., elimination or reduction of normal taxes and tariffs on imported inputs, conditions of export of manufactured products, rules of origin. etc.). <p><u>Elements of a Commitment:</u> The language in paragraph 526 provides a good basis for developing a commitment for this section of the Working Party Report</p>
527-539	- Government Procurement
	<p>[JPN]</p> <p>In paragraph 533, reference is made to transparency of the procurement of goods and services. Japan is of the view that with regard to government procurement, transparency of rules and regulations as well as timing of their publication are important. Accordingly we would like to seek clarification from the Russian Federation on transparency of relevant laws and regulations of the Russian Federation in the field of government procurement and on the rules and regulations concerning publication. And these clarified points should be briefly reflected in the Report.</p>
	<p>[SUI]</p> <p>Paragraph 533 : The draft federal law would eliminate certain current restrictions on participation by foreign suppliers in the deliveries of goods and services for State needs. Can the Russian Federation explain which current restrictions will be eliminated?</p>
	<p>[USA]</p> <p><u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p> <ul style="list-style-type: none"> - Russian legislation/regulations necessary to implement WTO rules are pending for this section. - The text requires updating on how the draft legislation is progressing and when it might be enacted. Information on the need for implementing regulations would be useful as well. - We seek information for the text on what is covered by state purchases other than for government use or consumption. - Are the operations of the FFMA considered purchases for state needs”? Are the purchases of TVEL for nuclear power plants considered purchases for state needs? <p><u>Elements of a Commitment:</u></p>

Paragraph No.	Comment
	<ul style="list-style-type: none"> - A commitment by Russia to request observership in the Agreement on Government Procurement (GPA) and to ensure that its “public contracting entities” award contracts in a transparent manner according to Russia’s laws, regulations and guidelines immediately upon accession. - A commitment to initiate negotiations to join the GPA with an agreed date for Russia to table an offer. - A commitment for an agreed date for completing negotiations, if the results of the negotiation are satisfactory to Russia and GPA signatories
540-548	- Regulation of Trade in Transit
	<p>[EC] <u>Descriptive part</u> We consider it will be necessary to add the question of railway freight fees in this section as fees paid for transiting the territory of the Russian Federation are higher than those paid for domestic destinations.</p> <p>A non exhaustive list of issues on which the EU remains concerned are: - the payment of fees for customs clearance for goods under international transit (paragraph 544) - the customs escort requirements for domestic transit procedures and the payments associated to this procedure, which are described in paragraphs 546-547</p> <p><u>Commitment</u> The commitment included in 548 will need some further additions, including specific language addressing the concern on railway freight fees.</p>
	<p>[JPN] 1. We understand that additional charges were introduced from October 2003 in respect of railway transportation fees and that these are a kind of security charges so called "convoy-fees" or "guard-fees". It is pointed out that in the case of a special cargo transported to Finland, rate of charges is lower, thus same rate of charges is not applied in all over the Russian Federation. This needs to be clarified. 2. At the end of paragraph 541, it provides that "except goods whose transit was prohibited pursuant to federal law...".We need to seek clarification from the Russian Federation on whether items whose transit is prohibited are exhaustively listed in paragraph 545.</p>
	<p>[USA] <u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p> <p>Russian legislation/regulations necessary to implement WTO rules are pending for this section.</p> <p>Paragraph 540 : Russia’s new fees for “customs escort” will be implemented after enactment to the amendments to the Customs Code.</p> <ul style="list-style-type: none"> - The text should reflect if these fees will apply to trade in transit, as well as to imports destined for customs ports in the interior of Russia. <p>Paragraphs 543 : The provisions of 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" that Members object to should be mentioned in this paragraph. Paragraphs 544 : The text should clarify whether customs processing fees are charged on trade in transit. Paragraph 546 : The text should indicate whether the reasons listed here for customs escort will be expanded by the Customs Code Amendments that establish customs escort fees.</p>

Paragraph No.	Comment
	<p><u>Elements of a Commitment:</u></p> <p>Paragraph 548 : The current draft commitment text is a good starting point for discussion. We would suggest that in addition to energy, fees for rail and air freight transit should also be addressed.</p> <p>548. The representative of the Russian Federation confirmed that the Russian Federation would apply all its laws and regulations governing transit of goods, including <u>those governing fees on trade in transit</u>, energy, <u>and fees and charges for railroad and airline freight within Russia for trade in transit</u>, in conformity with the provisions of Article V of the GATT 1994 and other relevant provisions of the WTO Agreement. The Working Party took note of this commitment.</p>
549-554	- Policies Affecting Foreign Trade in Agricultural Products
	<p>[ARG]</p> <p><u>Paragraphs 549 to 554:</u></p> <p>As stated by some members, it is supported the need to know the domestic support policies of the Russian agricultural sector in a wide and updated way. It should be also highlighted that, Russia should indicate how does ensure that domestic support will not cause "serious damage" to the rest of the Members in consistency with the Agreement on Subsidies and Countervailing Measures.</p> <p><u>Export Subsidies</u></p> <p>Argentina requests that Russia confirms it commitment not to apply or introduce any form of export subsidies, as in paragraph 552.</p> <p><u>Domestic Support</u></p> <p>1. Amber Box Base Period</p> <p>The base period should be recent and representative of the Russian policies for the change towards a market economy, especially those related to agricultural domestic support, and not one corresponding to the early post-soviet period (which was a period of very high levels of trade-distorting domestic support).</p> <p>The base period proposed by Russia is not representative of its recent domestic support policies and will not comply with the existing WTO disciplines. But, to establish an appropriated base period, Russia should submit more recent information (2000-2003)</p> <p>2. Green and Amber Boxes</p> <p>Argentina wishes to reiterate the comments and issues put forward by us in relation to the Green and Amber Boxes, namely:</p> <p>A) <i>Green Box</i></p> <ul style="list-style-type: none"> - Paragraph 3 related to the constitution of public stocks for food security purposes includes the creation of an Emergency Seed Stock Program, through which it would be ensured the seed supply in case of natural disasters and emergency situations, as well as the seed supply to non-producing or limited production areas. <p>In that sense, it is appropriate to ask the Russian Federation what the name of the food security framework program established by the national legislation, on which the current Seed Stock Program depends, is; what seeds are susceptible to be delivered under the present program; Which organism determines the seeds to be delivered in case of donation; and to what extent the seed supply to limited production areas is related to stock piling and maintenance. (How it is ensured that the produce is only for self-consumption and is not traded.)</p> <p>If emergency seed stock is sold at market prices, what is the support to producers in emergency situations or from non-producing areas about? All producers are supposed to purchase seeds at market prices. Also, ask the Russian Federation when the Seed Stock was created and how much stock there is.</p> <ul style="list-style-type: none"> - They are included in paragraph 2 (b) "Subsidies for waste collecting plants." The Russian Federation is asked to explain how this program

Paragraph No.	Comment
	<p>works and on which laws and regulations it is based. Further, which are the differences with the Operating Payment Program (including the cost of pest and disease control, etc.)? How does the Russian Federation ensure that said subsidy is not used for other purposes?</p> <ul style="list-style-type: none"> - The Russian Federation includes a Program on Credit and Financial Support to the agricultural sector under paragraph 11. We ask the Russian Federation which law or regulation established these credits. Also ask about the requisites for these credits to be granted and the payment conditions. <p>B) Amber Box</p> <ul style="list-style-type: none"> - External reference price. Under Annex 3 of the AoA, it shall be fixed. The Russian Federation took the external reference price of each year for which it estimated its AMS, highlighting that those years (1991-1995) are not considered to be representative. - <i>De minimis</i>: The <i>de minimis</i> level increased from US\$64 million in 1993 to US\$684 million in 1995. This change accounts for a growth of more than 1,000% in the <i>de minimis</i> level in two years. It is appropriate to require the Russian Federation to explain this rise, referring to the specific products to which this increase corresponds and the respective values. - Non product specific subsidies and compensations: The level of non product specific subsidies almost doubles in two years (from 5,902 million dollars in 1993 to 11,823 million dollars in 1995.) We require the Russian Federation to explain this increase corresponding to the 1993-1995 period.
	<p>[AUS] We note this section of the report will need to be updated once Working Party members and Russia have resolved outstanding issues in relation to this area of work.</p>
	<p>[BRA] <u>Export Subsidies</u> In line with Annex A of the July Package (Agriculture Framework), which determines the elimination of all forms of export subsidies for agricultural products, Brazil seeks a commitment that the Russian Federation agrees to eliminate all forms of export subsidies upon its accession to the WTO.</p> <p><u>Domestic Support</u> Brazil requests the Russian Federation to provide additional information on domestic support for the last five years. This would contribute to address the question of the base period, in the light of which commitments could be discussed.</p>
	<p>[CAN] <u>General Comments:</u></p> <p>The section presents opposing arguments from Russia and from Working Party members with views similar to Canada's. The major outstanding domestic support issue (base period for measuring the base for Russia's commitment on Total Aggregate Measurement of Support – Total AMS) is not resolved. The view put forth by Canada and some others, <i>viz.</i>, that Russia could have recourse to green box measures rather than large amounts of the more distorting AMS support, is represented in the section. On export subsidies, the two square-bracketed texts represent the as of yet unresolved status of Russia's entitlement to any export subsidy commitments larger than zero.</p> <p><u>Specific Problems:</u></p> <p><u>Domestic Support.</u> The text represents Russia's desire to obtain the entitlement to provide large amounts of distorting support in the future within its commitment on Total AMS. Some Working Party members, including Canada, argue that Russia's agriculture sector can be reformed with the help of measures meeting the criteria of Annex 2 of the Agreement on Agriculture (so-called green box).</p>

Paragraph No.	Comment
	<p>Russia has been asked to provide data for years later than 1997, in order to demonstrate to Working Party members that 1998 was an outlier crisis year (as claimed by Russia) and to reassure members that Russia has not taken advantage of the prolonged accession process to increase the amount of distorting support provided. Russia has not provided such later data, indicating that members would use any data for later years to impose a lower commitment on Total AMS than the commitment resulting from 1995-97 data.</p> <ul style="list-style-type: none"> - While the arguments of Russia and some Working Party members are represented in the text, there is no resolution of the base period and the resulting commitment on Total AMS. - Para. 553 refers to a commitment, the basis for and level of which have not been determined. While the para. does not refer to (and need not refer to) the underlying "Supporting Tables", they will need to be referred to in the Russia's commitment (Part IV, Section I). The absence of agreement on the years for which such supporting tables are needed is holding up progress on domestic support in agriculture. - Technically there are some drafting problems in the text (e.g., an amber box is not defined in the Agreement). However, these minor problems need not be addressed at this stage. <p><u>Export subsidies.</u> Russia argues that it needs to be entitled to provide export subsidies in agriculture in the future because the EU and others use them. This, in Canada's view, is not a fact that should entitle Russia to use export subsidies in the future (i.e., Russia would have non-zero commitments on export subsidies). Rather, any non-zero export subsidy commitment for Russia would need to be based on Russia having provided export subsidies in a selected base period.</p> <p><u>Possible Solutions and Drafting Proposals:</u></p> <ul style="list-style-type: none"> - The gulf separating Russia and some Working Party members on domestic support and export subsidies is large. It will need to be bridged before appropriate language can be inserted in the report. In general, such language would need to indicate that Russia's commitments are based on data provided for an appropriate period.
	<p>[EC] <u>Descriptive part</u> We would like to invite Russia to provide updated information for this section [in particular as regards domestic support].</p> <p><u>Commitment</u> Further discussions needed.</p>
	<p>[JPN] We understand that in recent years, the Russian Federation has not used any export subsidies for agricultural products. Nevertheless, the Russian Federation is reserving its position concerning use of such subsidies. We would like to seek clarification from the Russian Federation on concrete reasons for such reservation. Also we would like to request the Russian Federation to make a commitment that it will not use any export subsidies for agricultural products in the future as they may cause the most trade distortional effect.</p>
	<p>[USA] <u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p>

Paragraph No.	Comment
	<p>This section will need further revision once more progress is made in understanding Russia's agricultural policies, in particular, with respect to Russia's supporting tables for domestic support and export subsidies.</p> <p>The United States and other countries have pushed to eliminate export subsidies and there is very little support for Russia to have recourse to export subsidies after accession.</p> <p>There should be cross references to the section on Tariff Rate Quotas, i.e., to the description in these sections of measures relating to TRQs.</p> <p>Russia should provide updated supporting tables (beyond 1997), which reflect Members' technical comments to date. While these tables will not be reflected in the text, they will provide the framework for advancing our work on this section.</p> <p>As this section evolves, there may need to be additional information reflected in the text.</p> <p><u>Specific Drafting Suggestions:</u></p> <p>Delete last sentence of paragraph 551</p> <p>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.</p> <p><u>Elements of a Commitment:</u></p> <p>Paragraph 553 is acceptable, provided that the other requests are addressed appropriately</p>
555-557	<p>- Trade in Civil Aircraft</p>
	<p>[USA]</p> <p>Requests for Information or Clarifications That Should be Reflected in the Text:</p> <ul style="list-style-type: none"> - Russian legislation/regulations necessary to implement WTO rules are pending for this section, in particular Russia's intention with respect to subsidies and offsets. - We seek information on Russia's intentions with respect to its planned consolidation of the domestic civil aircraft sector. - <p><u>Elements of a Commitment</u></p> <ul style="list-style-type: none"> - Pending. Based on information provided.

Paragraph No.	Comment
561-623	TRIPS
561-570	1. General
	<p>[EC]</p> <p><u>Descriptive part</u></p> <ul style="list-style-type: none"> - We welcome Russia's legislative efforts in the area of IPR and consider its legislation is generally meeting TRIPs requirements. - We have some specific concerns, most notably as regards data protection. We consider that a legislative provision will be necessary which prohibits reliance on data submitted by a first applicant in support of an application for product approval of a second applicant during a period of at least 6 years, and which prohibits that during this period any subsequent applicant for marketing approval will be granted a market authorization unless he submits his own data. - Further discussions will be necessary on enforcement. <p><u>Commitment</u></p> <p>The commitment will need to include some specifications, in particular as regards data protection. Enforcement still under examination.</p>
	<p>[JPN]</p> <p>1. In paragraphs 593 and 594 of the sub-section, "Requirements on undisclosed information, including trade secrets and test data", reference is made to liability, etc. It is appropriate that such issues as liability be comprehensively consolidated in the sub-section, "Civil and administrative procedures and remedies"(paragraphs 612-622) for the sake of clarity.</p> <p>2. In relation to border measures referred to in paragraphs 610-612, we would like to seek clarification from the Russian Federation on the following points. Based on such clarification, we should consider including the Russian Federation's commitments in the Report:</p> <ul style="list-style-type: none"> (a) Improvement of communication between customs offices and right holders: When customs officials discover an item which seems to be infringing IPR at the customs office, the company personnel holding the right pertaining to the item will be called to the customs office for examining genuineness of such item. Given the large area of the Russian Federation, there may be a case where a foreign company personnel stationed in Moscow has to travel to a customs office in the Far-East region. And due to limitation in transportation, there are many cases that the personnel can not be at present to the customs office by the designated day. In order to avoid these situations, would it be possible to consider certain measures such as use of e-mail communication between a right holder and a customs office instead of being at present at a customs office? (b) Submission of deposit: Upon seizure at the customs office, a right holder is requested to submit a deposit. As we understand it, now in the Russian Federation, submission of bank guarantee (Letter of Credit) instead of cash deposit is permitted. We would like to request the Russian Federation to clarify this point. (c) Registration of trade marks at the customs office: With regard to procedures for registration of trade marks at the customs office, we would like to seek clarification from the Russian Federation on whether a request by right holder is necessary. We would also like to seek clarification from the Russian Federation concerning to what extent all customs offices in the Russian Federation are informed of registration of trade marks. Furthermore, we would like to request the Russian Federation that registration of industrial designs should be made at the customs office. (d) Improvement on unfair competition prevention laws:

Paragraph No.	Comment
	<p>We would like to seek clarification from the Russian Federation on treatment and regulation concerning dead copies under the current IPR legal regime. It should be pointed out that, in the case of only changes in trade marks of goods with dead copies of designs, taking into account these goods' short life span(for example 2 years) and given the fact that a long period is required to accomplish the criminal procedures for prosecution, recourse to the ordinary criminal procedures for prosecution may not be effective.</p> <p>3. In paragraph 612, it provides a explanation on a flow of ex-officio investigation procedures by customs authority. In addition to ex-officio investigation, it should also include a concise explanation on a mechanism of participation of customs authorities concerning protection of IPR.</p> <p>4. In light of making the "TRIPS" section comprehensive and also of enriching its contents, inclusion of the following elements which are contained in "TRIPS Non-Paper (No.35)(18 June 2004) into relevant part of the Report should be considered;</p> <ul style="list-style-type: none"> (a) Explanation on copyright and related rights (1st paragraph of page 91, "The draft law...") (b) Explanation on the new Code of Administrative Offences of the Russian Federation (Page 92, "The new Code of Administrative Offences of the Russian Federation came into force on July 1,2002...") (c) Explanation on specialized task forces by the Ministry of Internal Affairs(3rd paragraph of page 94, "Fight against...") (d) Explanation on Regulation on Protection of Intellectual Property Rights by Customs Authority (2nd paragraph of page 95, "In order to...") (e) Explanation on Federal Law "On Operational-Investigative Authority" (2nd paragraph of page 96, "It must be mentioned...") (f) Explanation on amendment to Article 28 of the Code of Administrative Offences(3rd paragraph of page 96, "Draft amendment to Article 28...") (g) Explanation on international cooperation by Customs Service(4th paragraph of page 96, "Besides, one of...") (h) Explanation on development of uniform documentation and investigation system (3rd paragraph from the bottom of page 97, "Currently, in the framework...") (i) Explanation on amendment to Article 151 of the Criminal Procedure Code (1st paragraph of page 98, "Currently, amendments to Article 151...") (j) Explanation on specialized task forces of the Ministry of Internal Affairs and territorial subdivisions (5th paragraph of page 98, "In order to intensify...") (k) Explanation on Article 20 of the Criminal Procedure Code (2nd paragraph from the bottom of page 99, "In accordance with...") (l) Explanation on uniform identification system for legal copies of audiovisual works and phonograms (1st paragraph of page 101, "Pursuant to...") (m) Explanation on joint action by the Ministry of Economic Development and the Ministry of Internal Affairs (3rd paragraph of page 101, "The plan of...") (n) Annex to TRIPS Non-Paper ("New System and Structure of Federal Bodies of Executive Power of the Russian Federation") should be attached to the Report of the Working Party as it provides a useful visual list of governmental ministries, agencies concerned, etc.
[USA]	<p><u>Requests for Information or Clarifications That Should be Reflected in the Text:</u></p> <p>Russian legislation/regulations necessary to implement WTO rules are pending for this section.</p> <p>Please provide responses to the following questions on border enforcement under the revised Customs Code:</p>

Paragraph No.	Comment
	<ul style="list-style-type: none"> - Please describe the procedures put in place by Russian Customs to implement Articles 393-400 of the revised Customs Code. - Please describe actions taken by Russian Customs to advised rights holders in Russia of the new procedures. - Article 393 provides, inter alia, that “the measures envisaged by the present chapter shall be taken in the event of goods being moved across the customs border or other actions being committed with goods under customs control.” Please clarify whether these measures apply to importations, exportations and in transit movements. - Article 394 references applications filed with respect to counterfeit goods. Please confirm that applications may also be filed with respect to suspected piratical goods in violation of a copyright. - Please clarify whether applications will be filed in a central location or in each port for which enforcement action is requested. - If applications are filed in a central location, please describe the manner in which the information will be provided to ports in Russia. - Article 395(2) provides that an object of intellectual property shall be included in the register where a right holder deposits a security or presents a contract of insurance for the risk of liability at least equal to 500,000 rubles (approximately \$17,326). Please confirm that a security deposit is required for each object of intellectual property protected rather than for each enforcement action taken relating to the object of intellectual property. - Article 397 (1) provides for the suspension of the release of goods where customs discovers counterfeit goods. Given that a classification of copyright piracy is not referenced in the article, please confirm that Customs will suspend the clearance of goods where piratical goods are discovered. - Article 399(1) provides that unless a decision to withdraw the goods, to arrest or confiscate them is received before the expiry of suspension of clearance of goods, the decision on suspending clearance of the goods shall be subject to revocation on the day following the date of expiry. Please clarify whether such action will be taken by Customs, where a right holder has filed a claim in court but the court has not ruled on the infringing nature of the goods. - Article 400 provides for a personal exemption where goods are of insignificant quantity. Please clarify “insignificant quantity”. - With regard to ex officio authority, we understand that the Code of Administrative Offences provides administrative responsibility for imports of goods infringing intellectual property rights in its Article 4.10 and 7.12 and that under these provisions, customs can initiate an administrative investigation in this case, constituting ex officio action. Is the addition of ex officio authority into the customs code contemplated? - Article 59 of TRIPS provides that competent authorities shall have the authority to order the destruction or disposal of infringing goods in accordance with Article 46 of TRIPS. Additionally, Article 59 provides that “in regard to counterfeit trademark goods, the authorities shall not allow the re-exportation of the infringing goods in an unaltered state or subject them to a different customs procedure, other than in exceptional circumstances.” Please indicate whether the revised Customs Code addresses this obligation and the provision in Russian law that complies with the Article 59 obligation. <p>Include in the draft WP report text information on key enforcement developments reported in Non Paper No. 35, submitted by the Russian Federation dated June 18, 2004, specifically from the following sections:</p> <ul style="list-style-type: none"> - From Section III (page 7) of the note, the reference to suspending release of goods for up to 20 days upon a right holder's application, and the reduction of the number of documents required and information on the Regulation on Protection of Intellectual Property Rights by Customs Authorities (No. 1199). - From page 8, the information in paragraphs 2 through 4 of that section.

Paragraph No.	Comment
	- From page 10 Section IV, the information on the amendments to Article 151 of the Criminal Procedure Code.
571-603	1. Substantive standards of protection, including procedures for the acquisition and maintenance of intellectual property rights
580-582	- Geographical Indications
	[ARG] Paragraph 581: This paragraph would be inconsistent with the TRIPS Agreement. That is, each country is entitled to apply the level of protection it deems appropriate, but it cannot warn a third country that it will protect the third country's geographical indications only if it offers an additional TRIPS protection (inconsistency with TRIPS Article 1).
	[CAN] <u>Specific Problems:</u> - In Canada's view, the language on geographical indications of paragraphs 581-582 is unclear as if every geographical indications regime that complies with TRIPS would automatically be sufficient to provide "similar rights". For this reason, it is unclear if the paragraph is consistent with the National treatment requirements of the TRIPS agreement. <u>Possible Solutions and Drafting Proposals:</u> - At the 15-18 November, 2004 Working Party meeting, the Russian Delegation answered to Canada's concern by saying that the TRIPS agreement would be fully implemented upon accession, without reciprocal commitments by Members. This should be reflected in the text.
583-586	- Inventions and Industrial Designs
	[NOR] In paragraph 583, it is stated that the Patent Law of the Russian Federation as amended by Federal Law No. 22-FZ of 7 February 2003 conforms to the requirements on compulsory licensing in Article 31 of the TRIPS Agreement. However, following the Doha Ministerial Declaration on TRIPS and public health, the General Council adopted on 30 August 2003 a waiver to Article 31 f) by permitting the use of compulsory licences for the production of patented pharmaceutical products for <u>export</u> to developing country members with insufficient production capacity. Does the present legislation in Russia permit the use of compulsory licences in conformity with the General Council Decision on 30 August 2003, or if not, what are the plans of the Russian Federation with respect to implementing this decision?
589-603	- Requirements on undisclosed information, including trade secrets and test data
	[SUI] Paragraph 603 : Switzerland strongly encourages the Russian Federation to endorse the commitment as explicated in this paragraph in order to ensure the effective implementation of the protection of undisclosed information.
	[USA] <u>Elements of a Commitment:</u> - That Russia will implement the TRIPS Agreement upon accession, without recourse to any transition period. - That the bracketed text of paragraph 603, which includes important elements of the commitment we seek on undisclosed test and other data, as a commitment text, will be expanded as a commitment text, as follows: a) to cover agricultural chemicals; b) to specify that unauthorized reliance on undisclosed test and other data will not be permitted;

Paragraph No.	Comment
	<p>c) to specify that the period of data protection is measured from the time that marketing authorization is granted; and d) to confirm that data submitted to obtain marketing approval for patented and non-patented pharmaceuticals qualifies for such protection.</p> <ul style="list-style-type: none"> - That Russia will provide national treatment in respect of protection of geographic indications, including, but not limited to, the elimination of the reciprocity requirement for appellations of origin; - That Russia will provide more effective enforcement of intellectual property rights (IPR), referencing text earlier in the section that describes: <ul style="list-style-type: none"> a) how the Russian Federation will ensure that effective action to address IPR infringement is taken, b) how remedies are provided which constitute a deterrent to further infringements and c) how effective border measures are applied to prevent import and export of pirated and counterfeit goods. - The proposed commitment language in bracketed paragraph 623 does not address all of the Members' concerns.
624-652	POLICIES AFFECTING TRADE IN SERVICES
	<p>[ARG] Argentina reserves its right to comment on this area, as its bilateral services negotiation has not been concluded yet.</p>
	<p>[CAN] <u>General Comments:</u></p> <ul style="list-style-type: none"> - Although the Working Party services text is an improvement over the previous version, it is still at a basic level. Members understand that this section will need to be revised once the services negotiations are concluded (EC, US, HKC, and Canada). - Overall, the text is not extensive in its coverage of the sectors which are of priority interest to Canada -- financial services, professional services, oil and gas energy services, and movement of persons. For example, the WP Report mentions the large state-owned banks and their competitive advantage in the Russian market, but does not discuss many other aspects of the financial sector. <p><u>Specific Problems:</u></p> <p><i>Accounting standards</i></p> <ul style="list-style-type: none"> - In Canada's view, the language on accounting standards is not sufficient (par. 642-643). In bilateral discussions, Russia indicated that the international standards are already there for banking services, but plans for implementation of international standards to companies listed in stock exchanges were postponed since the process is longer and more difficult than expected. Russia's objective is to require that companies listed in stock exchange apply international accounting standards by 2007. <p><i>Juridical person</i></p> <ul style="list-style-type: none"> - The level of details on persons who can import/export goods (paras.122-123) compared to the level of detail on juridical persons of Russia who may offer services (paras. 628-629) is not comparable. A more balanced approach would require more details on possible forms for juridical persons of Russia. <p><i>Discretionary licensing</i></p> <ul style="list-style-type: none"> - Canada is concerned with discretionary licensing of services providers. The need for greater transparency and predictability in the legislation is

Paragraph No.	Comment
	<p>a theme that appears in many instances (e.g. application of subsoil legislation) that Canada would like to see that issue well reflected in the report. Reform of the legal framework with respect to licensing is mentioned in the report (par. 627).</p> <p><i>Telecoms services</i></p> <ul style="list-style-type: none"> - Canada would like to see some details on the implementation of the telecoms reference paper. <p><u>Possible Solutions and Drafting Proposals:</u></p> <ul style="list-style-type: none"> - In addition to the reference to the application of international accounting standards to banks from January 2004, Russia should confirm the timeline from accession for implementation of international accounting standards to companies listed in stock exchanges and for other companies. - Russia should commit to transparency and predictability of requirements and procedures with respect to licensing of service providers and address concerns with regards to discretionary attribution of licenses. - Russia should clarify what forms juridical persons may take and indicate whether individuals are juridical persons.
	<p>[EC] <u>Descriptive part and commitment</u> Further discussions necessary</p>
	<p>[HGK] <i>Services (paras 624-652)</i> We understand that the section has yet to be discussed substantively by the WP, but we note that substantive changes have been made to the sections. We seek clarifications on the basis for making those changes, especially if there have been any agreement reached on those issues in other contexts including bilaterals.</p> <p><i>Services subsidies (para 634)</i> We note that the reservation concerning on-going negotiations on services subsidies had been removed in Rev.2 of the draft WP report, but has now been re-inserted. We seek clarifications as to the reason for the re-insertion and remain concerned that the reservation is unwarranted as all acceding Members are expected to comply with the WTO agreements in full upon accession.</p> <p><i>Prudential measures (para 643, last sentence)</i> We seek clarifications as to what are the measures that the Russian Federation intend to take as described in the paragraph and which of those measures cannot be covered by paragraph 3 of the Annex on Financial Services or other relevant exceptions of the GATS (e.g. Articles XI, XII and XIV).</p> <p><i>Horizontal limitations (paras 644-647)</i> We note that the inclusion of these horizontal limitations in both the WP report and in the services schedule had been the subject of discussions at previous plurilaterals on services. We seek clarifications on updated developments further to those plurilaterals, specifically the state-of-play of those horizontal limitations and their inclusion in both the draft WP report and the schedule.</p>
	<p>[JPN] Concerning paragraph 636, Japan requests the Russian Federation to respond to the following matters that have been raised in paragraph 636, namely;</p>

Paragraph No.	Comment
	<p>(a) 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.</p> <p>(b) 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.</p> <p>(c) How the Russian Federation would implement measures in regard to protecting its "infant industries", considering that the GATS did not contemplate any safeguards mechanism.</p> <p><i>International Accounting Standards</i> Concerning paragraph 643, Japan requests specific information, if there is any, on the introduction of international accounting standards.</p> <p><i>Preserving Culture</i> In paragraph 645, the Russian Federation has mentioned regulations for the purpose of cultural protection. Japan requests additional specific information on what regulations may be taken, and what kind of juridical persons were subject to such regulations.</p> <p><i>Transparency</i> Concerning paragraph 650, Japan suggests that the Russia Federation rewrite the paragraph as following; "In response, the Russian Federation confirmed its commitment to ensure transparency of licensing requirements and procedures, qualification requirements and procedures, as well as other authorisation requirements in sectors where commitments are undertaken."</p> <p><i>Distribution Services</i> Japan has concerns that district administrations may implement regulations without clear explanation or justification on the supply of distribution services for the purpose of city development planning and demand and supply adjustment. Therefore Japan requests that the following be included in the accession party report. "The Russian Federation confirmed that regulations including licensing, on the supply of services would be based on transparent and objective criteria".</p>
	<p>[NOR]</p> <p>In paragraph 644 the representative of the Russian Federation explained "that services considered as public utilities and referred to in the Horizontal part of the Schedule of specific commitments of the Russian Federation in services, could be subject to public monopolies or exclusive rights granted to private operators. 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. The foreign services suppliers can apply for these exclusive rights on equal terms with national services suppliers. Services considered as public utilities were supplied on the basis of public contract."</p> <p>In an explanatory note to the last offer we have received from the Russian authorities regarding the schedule of specific commitments in services it is stated: "Public utilities exist in sectors such as utility services, related scientific and technical consulting services, R&D services, technical testing and analysis, environmental services, health services, transport services and services auxiliary to all modes of transport. "We seek further clarification of how rules and regulations are applied for foreign companies within these areas.</p> <p>We will come back with further comments on the services chapter in light of the results of the bilateral negotiations on market access for services.</p>

Paragraph No.	Comment
	<p>[USA] <u>Requests for Information or Clarifications That Should be Reflected in the Text</u></p> <p>The text will need elaboration on any horizontal limitations and definitions related to subsidies, privatization, juridical persons, national identity, culture, and public utilities referred to in the Schedule.</p> <p><u>Elements of Commitments:</u></p> <p>In addition to the language that Russia has promised to include on the insurance regulatory authority, we are seeking detailed commitments regarding transparency and licensing, especially with respect to financial services. Elements of such commitments include:</p> <ul style="list-style-type: none"> - a clear definition of public utility and commitments on how Russia's measures relating to culture and national identity will be applied; - publication of measures prior to their implementation; - publication of a list of all organizations, including those organizations delegated such authority from national authorities, with responsibility for licensing service providers and any changes to that list; and - specific commitments pertaining to licensing, such as regular scheduling of examinations, notification of the status of an application for a license upon request from the applicant, meaningful deadlines for decisions, and providing information regarding the reasons for denial of a license. <p>In addition, there may be sector specific categories, such as financial services including insurance, and telecommunications, which require additional elaboration.</p>
653-667	TRANSPARENCY
	<p>[EC] <u>Descriptive part</u> This sections will need to be reviewed with a cross check of specific sections for which WTO has specific transparency requirements.</p> <p><u>Commitment</u> Further discussions needed.</p>
	<p>[USA] <u>Elements of a Commitment</u></p> <ul style="list-style-type: none"> - The basic elements of the commitments we are seeking are set out in bracketed paragraph 663. These elements will need to be elaborated and separated, but the basic ideas are reflected in this draft text. In addition, we seek the following elements: <ul style="list-style-type: none"> - Compliance, as of the date of Russia's accession, with the transparency provisions of each of the WTO Agreements, including the Agreements on TBT, SPS, TRIMS, Rules of Origin, Customs Valuation, and TRIPS, as well as the GATS, and GATT 1994. - The list of specific information that, at a minimum, the Russian Federation will publish in connection with implementing transparency obligations.

Paragraph No.	Comment
	<ul style="list-style-type: none"> - Provision of an opportunity for governments and traders to provide comments on legislation, regulations and measures of similar effect before they are adopted or enter into force, and provide a process for taking those comments into account. - For a transitional period, Members may also require recourse to a special trade review mechanism monitoring Russia's progress on implementation. <p><u>Elements of a Commitment</u></p> <ul style="list-style-type: none"> - We seek acceptance of the commitment language in paragraph 666.
668-680	FREE TRADE AND CUSTOMS UNION AGREEMENTS
	<p>[AUS]</p> <p>1. This section needs to be reorganized so that it can be better understood. We offer suggestions below on improving the text:</p> <ul style="list-style-type: none"> - a recognition in paragraph 677 that the residency requirement contravenes WTO obligations; - clarification of the second half of paragraph 175, which implies that FTA provisions under the CES can be implemented independently by members to an extent determined by the member. This is not consistent with Article XXIV of GATT or Article of V GATS; - a substantial response to the concerns raised by members on services MFN exemptions (paragraph 676); - elaboration of the text in relation to provisions of the Union State with Belarus, mentioned in paragraph 674, including a progress report on its implementation and any relevant target dates; - elaboration in the text on any plans to establish a single agricultural market in the CIS area, including: <ul style="list-style-type: none"> - how a single agricultural market is to be established; - whether it involves the opening up of import quotas and export quotas of limited duration for particular products; - whether the parties to it will forego recourse to anti-dumping, countervailing, safeguards and special agricultural safeguards measures in relation to agricultural products traded within the area; - whether all agricultural trade in the area will be covered, or only trade in certain products; - whether trade in agricultural products within the area be exempt from import duties (including tariff quotas), export duties and quantitative restrictions on importation and exportation. <p>2. We understand that a form of preferential trade arrangement to which Russia has been a party involves the opening up of import quotas and export quotas of limited duration for particular products. Arrangements of such a nature are not covered by GATT Article XXIV and are inconsistent with GATT Article I. Agreements that may be established under the WTO need to be free-trade areas or customs unions in the meaning of Article XXIV and the Understanding on that Article, and as such are required to cover substantially all trade and be established on a permanent basis according to a plan or schedule. We seek:</p>

Paragraph No.	Comment
	<p>- details of all preferential trade arrangements to which Russia has been a party from 2002 onwards that have involved the opening of an import quota or export quota for a particular product or a limited number of products, whether permanently or for a period of limited duration.</p>
	<p>[HKG] Paragraph 676-678: we note confirmation by the Russian Federation previously that they would comply with Article V of the GATS (in addition to Art.XXIV of the GATT) upon accession. That being the case, we seek clarifications as to why there is a need for inscription of MFN exemptions pertaining to future FTAs, irrespective of the legal basis for such exemptions.</p>
	<p>[JPN] In each paragraph of the present section, it provides explanations on preferential trade agreements to which the Russian Federation is a Party. Among these agreements, there are some agreements which have not yet entered into force. Concrete schedules for entering into force of such agreements should be included in the Report.</p>
	<p>[MOL] The current Free Trade Agreement between the Republic of Moldova and Russian Federation was signed in 1993. Recently, in Moscow, was reached an understanding concerning the renegotiation and conclusion of a new Free Trade Agreement between the Republic of Moldova and Russian Federation without exception, according to the WTO norms.</p> <p>In this context, we request that the Russian Federation will take the following commitment in the paragraph 669 of the chapter Free trade and customs union agreements:</p> <p>"The representative of the Russian Federation confirmed that Russian Federation would observe all WTO provisions, including those of Article XXIV of the GATT 1994 and Article V of the GATS in the 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 Russian Federation is a Member were met from the date of accession. The Working Party took note of this commitment."</p>
	<p>[USA] Requests for Information or Clarifications That Should be Reflected in the Text:</p> <p>Paragraph 668 : What portion of Russia’s actual imports and exports are covered by the preferential arrangements described in this section, and the trend.</p> <p>Paragraphs 670-71: The text of this paragraph should be expanded to clarify in a single place the rules of origin used in each of the preferential agreements for the purpose of determining the right of imports containing third country inputs duty free treatment. In this regard, the terms “substantial transformation (per paragraph 307),” “direct shipment,” and what constitutes “residency” (per paragraph 671) should be defined and clarified, and what constitutes “residency” by a firm should be described. For example, is a foreign-owned firm registered under domestic law considered a “resident” for the purposes of exporting goods duty free to other members of the preferential trade agreements?</p> <p>Paragraph 671: There is no mention of the Treaty on the Creation of the Economic Union signed by all the CIS except Turkmenistan in September 1993, the subsequent Agreement on Creation of the Free Trade Zone, or its amending protocol. Did any of the “36 basic intergovernmental and intergovernmental documents” agreed under the amending protocol ever go into effect?</p>

Paragraph No.	Comment
	<p>Paragraph 671: What individual bilateral agreements are, or are not, in force between Russia and each of the other eleven CIS countries.</p> <p>Can Russia confirm that the destination principle for the application of indirect taxes would be followed from 1 January 2005 for all goods for all CIS countries?</p> <p>Paragraph 673 describes the Agreement on the Customs Union and Common Economic Area and, separately, the Agreement on the Establishment of the Eurasian Economic Community (EAEC). Both agreements appear to apply to the same set of countries. More information on the agreements should be added to the WP report text, including the following provisions:</p> <ul style="list-style-type: none"> - the legal relationship between the EAEC and Customs Union; - the deadline for formation of the common external tariff of the Customs Union; - the percentage of the HS schedule lines for each member state aligned at present; and - a description of trade areas not covered by harmonized tariff at this time. <p>Paragraph 673 : Provide information on the nature and scope of the "57 additional agreements" concluded under the Customs Union and the EAEC, which address issues covered by the WTO, e.g., trade in transit, customs registration and customs control, market access of goods and services from third countries; application of technical, sanitary, veterinary, and phytosanitary norms to imports; and trade remedies. What is the status of these agreements in Russian law? Which ones covering WTO-related issues have been implemented? What will be their status vis-à-vis the WTO after Russia accedes?</p> <p>Paragraph 676 : We would like to see information in this paragraph, or earlier in the text, responding to Members' requests for information, e.g., on how and when a common external tariff would be established and on the additional agreements (Protocols) concluded by the Customs Union/EAEC concerning non-tariff issues covered by WTO Agreements. Information was also sought on Russia's participation in the Ashkabad Agreement relating to indicative lists of goods for trade among the CIS. These requests should be noted in the text, and find response later in the section.</p> <p>Paragraph 677 : We suggest rephrasing the statement about the PCA and preferential provisions, as there are specific services commitments in the PCA that are applied only to the EU and to no other MFN trading partner, e.g., in the area of insurance services. Russia should acknowledge this in the text, and indicate what will be done about it in the context of its WTO accession.</p> <p><u>Elements of a Commitment:</u></p> <p>The United States supports the commitments set out in paragraph 679.</p>
	ANNEX II
	<p>[USA]</p> <p>Copies of the following legislation and regulations should be provided to the WP for review.</p> <p>Enacted Legislation Implementing WTO rules:</p>

Paragraph No.	Comment
	<ul style="list-style-type: none"> - GR. No. 990 of 21 December 2000 - Federal Law “On Amending the Federal Law “On State Regulation of Production and Turnover of Ethyl Alcohol, Alcoholic and Alcohol-Containing Products” - Regulations in place being used in the application of the new Trade Remedies Law. <p>Outstanding Pending Legislation</p> <ul style="list-style-type: none"> - Federal Law “On Amending the Federal Law “On Customs Tariff.” - Federal Law “On Amendments to the Customs Code,” including those implementing licensing requirements for importation of optical grade polycarbonate and expanding investigative authority for Customs officials - Latest draft of the decree on PSI for valuation - Implementing regulations under Commercial Secrets Law to provide for protection against unfair commercial use, including unauthorized reliance, of undisclosed test and other data submitted to obtain marketing approval of pharmaceuticals and agricultural chemicals (TRIPS Article 39.3) - Law commissioned by President Putin establishing “high technology” SEZs and implementing regulations. <p>Other Outstanding Pending IPR Legislation (to address bilateral concerns/enforcement)</p> <ul style="list-style-type: none"> - Amendment to Criminal Code Article 146 granting the Ministry of Interior (MVD) joint authority to conduct investigations concerning piracy and counterfeiting - Amendment to Activity Licensing Law to extend licensing to OD manufacturing facilities and implementing regulations <p>TBT Legislation, Enacted and Pending</p> <ul style="list-style-type: none"> - Text of Government Resolution that ensures that “normative legal acts” under the Law on Communications are developed in accordance with the TBT Agreement (see paragraph. 433). - Document containing simplified procedures for extending the validity of certificates for communications equipment which has not been substantially changed (see paragraph. 434). - Copy of the Government approved technical regulations development program (see paragraph 439).