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Working Party on the
Accession of the Russian Federation

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ACCESSION OF THE RUSSIAN FEDERATION

Additional Questions and Replies

Addendum

The Permanent Mission of the Russian Federation has submitted additional replies to questions concerning services raised after the eighth meeting of the Working Party held on 29-30 July 1998, with the request that they be circulated to members of the Working Party.

Services

Question 44.

Can Russia provide an indication as to when its schedule of commitments for services will be circulated to WTO Members?

Answer:

Pending.

Question 45.

In its replies to Questions 113, 117, and 118 of WT/ACC/RUS/13/Add.1. Russia indicated that market access in the banking sector provides for the possibility of reciprocal agreements with other countries.

Could Russia, please, provide details? We should like to emphasise that to meet WTO requirements, Russia must give full consideration to the MFN principle, and not discriminate between service suppliers from different countries. We would expect any reciprocity arrangements in banking to be removed.

Answer:

With respect to financial services Russia will be ready to consider the possibility of the MFN principle implementation taking into account the commitments and practices of other WTO Members as well as the provisions of the Annex on Article II (MFN) exemptions.

Question 46.

In its reply to Question 114 of WT/ACC/RUS/13/Add.1, Russia indicated that there is no plan for a staged liberalization of the 12 per cent ceiling on foreign capital participation in the banking sector, as the limit has not yet been reached. This is not sufficient reason to retain the ceiling, which violates market access rules, and could potentially benefit countries with which Russia has reciprocity agreements.

When will Russia remove the ceiling?

Answer:

Market access rules pursuant to the GATS Article XVI do not impede a possibility to establish quota or ceilings for foreign service providers, subject to the relevant measure is scheduled. Russia intends to include such a ceiling into its draft Schedule of Commitments.

Question 47.

Russia has indicated that in addition to the overall 12 per cent ceiling on foreign capital participation in the Russian banking system, the following restrictions apply to newly established lending institutions whose authorized capital consists of more than 50 per cent of the funds contributed by non-residents: (i) the authorized capital of such institutions must be equal to at least 10 billion Rubles; and (ii) the contribution made to the authorized capital by at least one participant must be equal to at least 10 billion Rubles (replies to Question 168 of WT/ACC/RUS/9/Add.3 and to Question 115 of WT/ACC/RUS/13/Add.1).

Answer:

See the answer to question 48 herein.

Question 48.

Do domestic banking suppliers have to meet these criteria? If not, this would be inconsistent with the principle of national treatment under Article XVII of the GATS and we would request their elimination.

Answer:

National treatment rules pursuant to the GATS Article XVII do not impede possible exemptions from national treatment, provided that the relevant measure is scheduled. Russia intends to include all national treatment exemptions into its draft Schedule of Commitments.

Question 49.

Russia has indicated a number of areas in which payment and transfers are limited when services are supplied by non-residents. It will be necessary for Russia to demonstrate that restrictions do not contravene the provisions of GATS Article XI.

- **For example, no limitations are made on current account currency transfers made by residents (reply to Question 206 of WT/ACC/RUS/9/Add.2). Could the implications of the distinction between ‘resident’ and ‘non-resident’ be explained in more detail? Can foreign nationals be considered resident under any circumstances?**

- **Russia has indicated that hard currency settlements for “certain services” supplied by non-resident individuals are prohibited without a Central Bank licence (reply to Question 206 of WT/ACC/RUS/9/Add.2). Could Russia please detail which services are affected by this legislation, along with reasons why their supply requires a licence?**
- **Russia has indicated that Ruble proceeds from the supply by a non-resident individual of services on the territory, of the Russian Federation must be entered on his or her account with an authorized bank (reply to Question 206 of WT/ACC/RUS/9/Add.2). Why is this the case?**
- **It is also prohibited to purchase foreign currency, on the Russian domestic market using funds from non-resident individuals’ rouble-denominated accounts (reply to Question 206 of WT/ACC/RUS/9/Add.2). Could Russia please explain the reason for this restriction?**
- **Are these regulations removed by the foreign trade legislation passed on 30 September 1997 which permits “any Russian individual” to transfer abroad “up to US\$2,000 daily without opening a current foreign-currency account or obtaining any additional permits” (WT/ACC/RUS/16/Rev.3)? Does this mean that procedures for-opening and maintenance of current foreign-currency denominated accounts by resident no longer remain to be “settled” (as mentioned in Russia’s reply to Question 214 of WT/ACC/RUS/9/Add.2)?**
- **Foreign exchange settlements between non-residents and residents for services provided by, the former, are carried out in accordance with the “licensing procedures” established by the Central Bank (reply to Question 206 of WT/ACC/RUS/9/Add.2). Are there any other restrictions in addition to those mentioned above? (Russia’s reply to Question 216 of WT/ACC/RUS/9/Add.2 mentions only the prohibition of the purchase of foreign exchange on the domestic currency, market using funds from non-resident’s rouble-denominated accounts noted above.)**

Answer:

The concepts "resident" and "non-resident" are defined in paragraphs 5 and 6, Article 1 of Russian Federation Law No. 3615-1 "On Currency Regulation and Currency Control", dated 9 October 1992, which was submitted earlier. Natural persons are considered residents, if they meet the requirements of paragraph 5(a), Article 1 of the said Law.

Instruction No. 11 of the Central Bank of the Russian Federation mentioned in question 206 was invalidated pursuant to Directive No. 25-U of the Bank of Russia "On Amendments and Additions to the Bank of Russia's Regulations No. 503 of 15 August 1997", dated 19 November 1997. All payments in foreign currency for services purchased by individuals within the territory of the Russian Federation may be made only in the presence of a Central Bank licence which is issued on a case-by-case basis to service providers and consumers irrespectively of the service sector or sub-sector.

Please specify the question.

There currently exist no restrictions on purchases of foreign currency in the domestic currency market of the Russian Federation using funds of non-resident individuals' rouble-denominated accounts.

As concerns the first sentence, please specify what regulations and legislation are mentioned in the first sentence.

As concerns the second sentence, no, it does not mean that.

Taking into account the reference to the reply to question 206, see the reply to paragraph 3 of question 49.

Question 50.

Russia's reply to Question 207 of WT/ACC/RUS/9 given in answer to Question 94 of WT/ACC/RUS/9 indicates that there are no quantitative restrictions on transactions effected by residents involving capital accounts. However it has previously been indicated that foreign exchange transfers from the Russian Federation by residents under transactions related to movement of capital only be effected with the "permission of the Bank of Russia" (reply to Question 214 of WT/ACC/RUS/9/Add.2), if the "required documents" have been submitted (reply to Question 215 of WT/ACC/RUS/9/Add.2).

- **Could Russia please indicate precisely what restrictions (quantitative or other) apply to restrictions and non-residents on transfers involving the capital account?**

In addition, we seek clarification of any differences in the way that residents and nonresidents are treated.

- **What is meant by the statement "non-residents enjoy more favourable treatment compared with residents as far as currency transactions are concerned" (reply to Question 215 of WT/ACC/RUS/9/Add.2)? What additional benefits do non-residents gain?**
- **Russia indicated that "Non-residents may transfer dividends and other income derived from investment activities from the Russian Federation" (reply to Question 215 of WT/ACC/RUS/9/Add.2). Are there restrictions on other transfers of capital, either by currency regulations or other means?**
- **We are uncertain what Russia intends by allowing non-residents the right to freely transfer foreign exchange from the Russian Federation "if these foreign exchange valuables were previously transferred, imported or sent into the Russian Federation" (reply to Question 214 of WT/ACC/RUS/9/Add.2). Can Russia clarify what is intended?**

Answer:

Remark to paragraph 1 of the question: Mentioned answer to question 94 has no relation to the subject of currency regulation.

Please specify the question.

Remark to paragraph 3 of the question: With respect to the differences in residents and non-residents treatment, see the legislative acts governing currency regulations which were provided earlier.

Non-residents are not restricted in the use of the foreign currency owned by them, while residents are restricted.

Please specify what is meant by "transfers of capital" and "capital".

The purpose of this measure is to guarantee to non-resident holders of foreign currency assets their rights of ownership towards such assets.

Question 51.

Are there plans to allow branches of foreign insurance companies to carry out insurance business, rather than merely services 'auxiliary' to insurance services? Is such legislation incorporated into the Law on Insurance vetoed by, the President and currently undergoing review? (replies to Question 107 of WT/ACC/RUS/13/Add.1 and Question 273 of WT/ACC/RUS/9 refer).

Answer:

In accordance with currently applicable legislation, foreign legal entities and foreign individuals may engage in insurance business in the Russian Federation only if they have obtained a licence for conducting insurance activities on Russian territory. Such licences may only be granted to a legal person registered in the Russian Federation.

Question 52.

Russia's reply to Question 274 of WT/ACC/RUS/9 indicated that a 49 per cent limit applies to foreign investors' aggregate ownership interests in the charter capital of joint-venture insurance companies. It also stated that foreign legal entities and individuals only leave the right to participate in the establishment of limited liability or joint-stock companies.

- **Does Russia have plans to eliminate these restrictions which are inconsistent with GATS Article XVI(f)?**
- **Is the commitment to lift quantitative restrictions on foreign involvement in the charter capital of insurance companies within 5 years (under the Partnership and Cooperation Agreement (1994) between the Russian Federation and the European Communities) to be extended to other countries on an MFN basis?**

Answer:

The Russian Federation intends to implement a plan for gradual liberalization of access to the national insurance market, taking into account GATS requirements.

Russia's obligations under the Agreement on Partnership and Cooperation with the European Communities concerning the maximum interest that may be held by foreign investors in the charter capital of insurance organizations will be fulfilled as scheduled.

As concerns the extension of these obligations to other countries, this is a matter for negotiations between such countries and the Russian Federation.
