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Information Regarding the Development of Russian Federation Legislation on Foreign Economic Regulation in 1996

The Permanent Mission of the Russian Federation has submitted the following information regarding the development of Russian Federation legislation on foreign economic regulation in 1996, with the request that it be circulated to the Members of the Working Party.

In accordance with the GATT/WTO practice for acceding countries, the Russian delegation has kept the Working Party regularly informed on Russia's existing legislation on the economy, foreign economic activities regulations and related developments. These subjects have been thoroughly discussed in L/7410, WT/ACC/RUS/2, WT/ACC/RUS/4, WT/ACC/RUS/9, and a number of other documents, including those presented within the framework of the fourth session of the Working Party on Russia's accession to the WTO.

In addition, approximately five hundred legislative acts of the Russian Federation have been translated into the English language and submitted to the WTO Secretariat (see L/7410/Add.1, WT/ACC/RUS/2/Add.1, and WT/ACC/RUS/12).

During this same period, work has continued in the Russian Federation to develop the legal foundation of its foreign economic activity. Two principal factors have influenced this legislative work in 1996. These factors were: first, the ongoing economic reform aimed at strengthening market-based relations in the Russian economy; and second, the progressive integration of Russia into the world economy. One important catalyst for this kind of law-making was the intention to harmonize Russia's foreign trade regime with the respective requirements of GATT/WTO. This is why every new draft law, before being enacted, has been scrutinized for GATT/WTO consistency in accordance with Article XVI, paragraph 4, of the Marrakesh Agreement Establishing the World Trade Organization.

In January 1996, a development of great significance to the advancement of a market economy in Russia was the adoption of Part II of the Civil Code of the Russian Federation (the Civil Code). The adoption of Part II of the Civil Code superseded statutes enacted a long time ago which were tailored to outdated needs based on rigid planning, a centralized economy, and dominant State ownership.

This event followed the adoption of Part I of the Civil Code which went into force on 1 January 1995. Elaborating on provisions set forth in Part I of the Civil Code, a law on joint stock companies was enacted in December 1995. Drafting work is under way on laws on limited liability companies and on State-owned and municipally-owned enterprises. A priority task in these and other efforts is to provide legal support for market change in Russia by ensuring the uniformity and systemic nature of legislation on commercial organizations built around the Civil Code as the core of applicable regulations.

Work has continued on draft legal acts which should streamline taxation procedures. In March 1996 an updated law on excises was approved. On 1 January 1996, the profit tax law was amended. The draft of the General Part of the Tax Code of the Russian Federation has been placed before the State Duma. The Tax Code is a comprehensive document encompassing the whole range of tax-related issues, designed to systematize and adjust the entire array of taxation laws. The purpose of the new tax documents, including both those already in effect and those still being drafted, is to create a taxation system which would be consistent, transparent, and readily manageable. This proposed new system does not envision any arrangements to provide incentives (or disincentives) to some economic sectors, enterprises, or regions at the expense (or to the benefit) of others.

Russian Presidential Decree No. 1008 "On the Approval of a Concept for the Development of the Securities Market in the Russian Federation," dated 1 July 1996, has approved a conceptual plan to develop the country's securities market, which provides for the development of related State policy and strategy for upgrading the legal basis of the securities market.

One of the more significant enactments regulating foreign economic activities includes the Federal Law No. 157-FZ "On the State Regulation of Foreign Trade," dated 13 October 1995, which entered into force in 1996.¹ This federal law lays down fundamental principles for the State regulation of foreign trade, procedures for the conduct of foreign trade by Russian and foreign entities, and the rights, obligations, and liability of State authorities of the Russian Federation and its territorial subjects regarding foreign trade activities. This federal law defines foreign trade as entrepreneurial activities in international exchanges of goods, work, services, information, and intellectual assets.

This federal law establishes that the Russian Federation's foreign trade is to be regulated by the Constitution, the Law on the State Regulation of Foreign Trade, other federal laws, generally accepted principles and norms of international law, and international agreements to which Russia is a party. This provision is especially important in the light of Russia's accession to the World Trade Organization.

This federal law stresses the integrity of the system for the State regulation of foreign trade and for export control throughout the Russian Federation, and of its customs territory, the priority of economic rather than administrative measures of State regulation, the equality of all participants in foreign trade, the protection of the rights and interests by the State, and the exclusion of unwarranted interference with activities by the State and its agencies.

Chapter II of the federal law defines and delimits the competence of the Russian Federation and its territorial subjects in the field of foreign trade. The limits of authority of the Russian Federation extend, among other things, to the governmental regulation of foreign trade, including financial, currency, credit, tariff, and non-tariff regulation; export control, the certification of products during their importation and exportation, and the protection of Russia's economic sovereignty and the economic interests of its territorial subjects.

This federal law includes provisions regarding basic methods for governmental regulation which are accepted in world practices and fall within the terms of reference of the World Trade Organization. Most notably, Article 14 of this federal law prioritizes the customs tariff method for regulation of foreign trade. Article 15 of this federal law lists the limited cases where it is possible to invoke quantitative restrictions. The provisions of this Article are consistent with basic provisions set forth in corresponding WTO agreements.

¹This federal law was passed by the State Duma on 7 July 1995, approved by the Federation Council on 21 July 1995, signed by the President on 13 October 1995 and became effective, for the most part, 30 days afterwards, but its Articles 15, 16 and 19 took effect later in 1996.

This federal law specifies that a governmental foreign trade monopoly may be declared, on a temporary basis and by way of an exception, on the export or import of individual categories of goods in conformity with Article XVII of the GATT, 1994, i.e. government-controlled State trading enterprises must be guided by the principles of non-discrimination and fair commercial practices, and by other WTO principles and disciplines.

In accordance with GATT 1994 and with international agreements to which the Russian Federation is a party, this federal law contains provisions on export and import prohibitions and restrictions for national security reasons, on participation in international economic sanctions, on retaliatory measures, border trade, and free economic zones.

Article 18 of this federal law regulates in detail the possible employment of safeguards against imported products, and is in compliance with generally recognized standards of international law. It is based, in particular, on provisions of the WTO Agreement on Safeguards.

This federal law's operation in 1996 has marked a significant step forward in integrating Russia's legislation into the WTO legal system and strengthening market methods in the Russian economy and foreign economic activity regulations.

In accordance with provisions and principles in the Federal Export Promotion Programme, and Government Resolution No. 53 "On Additional Support for Russian Exports of Goods and Services", dated 20 January 1996, the foremost task in this field is to develop a national governmental system to encourage and promote exports with a high added value. Crucial components of this system should include efficient arrangement of export guarantees, financing on short, medium, and long-term crediting terms, and the insurance of export loans to hedge exporters against long-term commercial (banking) and political risks.

Export liberalization has been carried on through a number of resolutions. On 21 March 1996, the Russian Federation issued Government Resolution No. 300 which abolished the mandatory registration of export contracts. Another Government Resolution, No. 479 of 1 April 1996, lifted export duties on all types of goods. Under Government Resolution, No. 413 of 11 April 1996, new customs duty rates for individual categories of goods have been in place since 15 May 1996.

Work has proceeded in revising the legal regulation of investment in the Russian economy. Related changes to applicable Russian legislation are designed to cultivate a favourable investment climate, improve Russia's image as a host country for investment, and increase the legal stability of the investment process.

One step in this direction came with the adoption of Federal Law No. FZ-225 "On Production-sharing Agreements" dated 30 December 1995, which aims to furnish conditions for the attraction of foreign and domestic investors in natural resources by providing government guarantees to the effect that the conditions of specified agreements will remain consistent. In keeping with this Law, investors (including both Russian and foreign parties) are exempted from all taxes, customs payments, and other obligatory deductions, with the exception of profit tax, payments for mining rights, premiums payable towards medical and social insurance schemes, and dues towards the employment fund.

Russian Government Resolution No. 534 "On Additional Incentives for Private Investment in the Russian Economy", dated 1 May 1996, has been designed to support highly-effective commercial investment projects with recoupment periods of less than two years through the Government's provision to the respective private investors of funds accounting for a percentage of the related project costs.

Russian Government Resolution No. 883 "On Concessions Regarding Payment of Customs Duties and Value-added Tax With Respect to Goods Imported by Foreign Investors as Contributions to the Charter Capital of Enterprises With Foreign Equity Participation," dated 23 July 1996, for its part, permits the favourable customs duties treatment for goods imported onto the customs territory of the Russian Federation as contributions to the charter capital of ventures with foreign equity participation provided that: (a) such goods are not excisable; (b) such goods belong to fixed production assets; and (c) such goods are imported within that time frame which is established by the newly-created enterprise's foundation documents for the establishment of its charter capital.

Considering the position of Russia's Kaliningrad Region as an enclave (or an exclave), Federal Law No. 13-FZ "Regarding a Special Economic Zone in the Kaliningrad Region", dated 22 January 1996, has established preferential terms, in particular, exemptions from customs duties and taxes, for businesses within this territorial subject of the Russian Federation.

A Government-sponsored draft law on free economic zones has passed its first parliamentary reading. Its underlying concept is that investors in free economic zones should enjoy the same customs procedures which are stipulated for free customs zones and qualify for corresponding customs tariff and tax rebates. An administrative-legal procedure will be in place to attract investors (on the basis of licences granted to them). Free economic zones will occupy relatively small territories and will mostly be of two types, namely: free customs zones (which will focus on international trade) and export-oriented production zones (which will focus on production operations).

A final draft federal law worth mentioning is the draft Law "On Measures to Protect the Economic Interests of the Russian Federation During Foreign Trade in Goods". When drafted, this law should provide comprehensive regulations, drawing on the respective WTO agreements, with respect to procedures for applying safeguards, anti-dumping duties, subsidies, and countervailing measures.

In summary, the work in 1996 on drafting laws was aimed at creating the legislative framework to support the policy of reforms carried out in the country, and the operative regulation of the processes under way in the key fields of economy and foreign economic activity.

An analysis of the laws adopted shows the positive results which have been achieved with respect to the creation of the legal basis in the sphere of institutional transformation, and the feasible actions which have been taken to expand the legal foundation and promote economic reform in the regulation of foreign economic activity.