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Working Party on the Accession of the Russian Federation

WORKING PARTY ON THE ACCESSION OF THE RUSSIAN FEDERATION

Checklist of Issues Relating to the Foreign Trade Regime of the Russian Federation

Note by the Secretariat

This note has been prepared in response to a request by the Working Party at its meeting on 26-27 June 2001 to present the issues raised by members further to that meeting in a consolidated form.

GENERAL

1. Members expressed appreciation for the work undertaken by the Russian Federation in preparing the documentation circulated in WT/ACC/SPEC/RUS/20 and 21. In this regard, it was stressed that the comments and issues raised on these documents while intended to facilitate the Russian Federation's work of updating and expanding the information needed for substantially moving the accession process forward could not be regarded as definitive or exhaustive statements of concerns or requests for clarification which might be further required.

2. As a general remark, it was indicated that members expected to gain a more precise understanding of the Russian Federation's intended actions to eliminate trade inhibiting and WTO inconsistent measures identified in the course of Working Party proceedings to date, to create WTO mandated institutions in the trade regime (e.g., inquiry points, prior publication of trade-related rules, right of appeal, transparency in administrative rulings, methods of notification to the WTO, new procedures, and protections of traders rights), and, to enact relevant legislation in line with WTO requirements. It was felt that these actions were essential to the development of a viable accession package, along with information demonstrating how and when conformity with WTO requirements would be established

REMARKS ON THE RUSSIAN FEDERATION'S FOREIGN TRADE REGIME

ECONOMIC POLICIES

3. It was noted that the information provided under this chapter purported to describe basic economic policies, with special emphasis on price controls, foreign exchange measures, foreign investment regime, and privatization, as these issues may have an impact on the operation of WTO provisions. In light of this, it was essential that the information provided should go beyond generalities and should focus on issues that impact trade.

Monetary and Fiscal Policy

4. Noting the Russian Federation's statement that the indirect taxation regime was now compatible with WTO requirements, including those under Article III of GATT 1994, questions were raised as to whether this would indicate that all differential treatment in favor of imports from and exports to CIS countries had been eliminated. The issue of whether the Russian Federation was still levying VAT on any exported goods was also raised. It was suggested that further information on the mechanism to ensure that taxes levied at the sub-national level were applied in a manner consistent with the WTO obligations (e.g. national treatment) would be required.

Foreign Exchange and Payments

5. Concern was expressed that existing requirements on foreign exchange acquisition and retention might inhibit trade. Additional information was sought on the status and operation of foreign exchange control and regulation measures currently maintained including, but not limited to, restrictions on foreign exchange retention, restrictions on the ability to obtain or retain foreign exchange for trade and payments purposes, restrictions on the right of residents to acquire and hold foreign exchange and to have accounts in foreign banks, pre-payment requirements for imports, and the acquisition charge of 1 per cent levied on the purchase of foreign exchange.

6. Additional points raised related to the existence of any situations under which the government provides foreign exchange to traders, and any plans to eliminate restrictions in light of Russia's favorable balance of payments position. It was also noted that Russia's present restrictions included, *inter alia*, measures that discriminated against imports from distant countries and would neither meet the requirements of MFN treatment under Article I of GATT 1994 nor those relating to the provisions of Article XI of GATT 1994 and Article 4 of the Agreement on Agriculture.

Investment Regime

7. Additional information was requested on the investment provisions of the amendments to the Law on Production Sharing Agreements adopted on 7 January 1999, Government Resolution No. 716 of 7 July 1998 "On Further Measures for State Support for Civil Aviation", Presidential Decree No.135 "On Attracting Additional Investments to Promote the Automobile Industry" of 5 February 1998, and Government Resolution No. 413 "On Additional Measures to Attract Investments for the Development of the Domestic Automotive Industry" of 23 April 1998.

8. Noting that in the course of the Working Party meeting in December 2000 the Russian delegation stated that it was Russia's intention to phase out all TRIMS and Subsidies Agreement violations prior to accession to the WTO, a description was requested of any plans the Government of Russia had undertaken for reforming measures in these areas as well as an update on specific legislative plans and the time frame to achieve this.

9. A descriptive summary was requested of the provisions contained in the draft Investment Law and the draft Tourism Law, together with an indication of the current status of these provisions in the Russian Federation legislative process and their prospects for enactment.

State Ownership and Privatization

10. It was generally felt the information provided by the Russian Federation in WT/ACC/SPEC/RUS/20 and WT/ACC/SPEC/RUS/21 was very helpful. However, more information was required on the scope and modalities of Russia's future privatization efforts and on those sectors of the economy that would not be privatized.

11. More information was also deemed necessary on the criteria applied by "local government authorities" in taking decisions on whether foreign participation in privatization was to be permitted and, if so, under what conditions. A clarification on the nature of the relationship between local and the national regulatory framework was also sought.

12. A commitment was sought of Russia to report on developments in its program of privatization as long as the privatization program was in existence and on other issues related to any ongoing economic reforms relevant to its obligations under the WTO.

Pricing Policies

13. A clarification was required on the extent to which prices charged by so-called "natural monopoly" suppliers of goods and services would differ depending on whether they were sold to a domestic or a foreign purchaser or - in the case of services associated with the sale of goods - they related to goods destined for export rather than for domestic consumption.

14. Regarding price controls applied at the federal level, questions were raised on how state controlled prices were determined and what their relation to international prices was. The provision of HS Item numbers for goods subject to price controls listed in Reference Paper 3 of WT/ACC/SPEC/RUS/21 was requested. Additional information was sought on Russia's announcement of efforts to unify its domestic and foreign operating tariffs for railways, as well as a status report on developments.

15. Regarding price controls applied at the sub-central level, an inquiry was raised on the scope of authority at the sub-central level to apply price controls and on whether these measures were actually reviewed by the Federal Authorities.

16. Concern was raised that Russia's price controls on energy and the prices at which it was made available on a selective basis to certain industries might have trade implications. The Russian Federation was asked to describe the provisions of Order No. 12/1 of the Federal Energy Commission of 24 March 1999 "On Granting a 50 Percent Reduction of Prices of Gas to Enterprises Which Produce Chemical Fertilizers, Chemical Protections for Plants, and Raw Materials for Production Thereof, in 1999" (as amended on 4 June 1999). Specific clarification was asked as to whether this Order was extended, whether it was still in effect, or whether there were other legal provisions that provided for similar price reductions for the fertilizer industry or for other industries.

17. A commitment was sought that Russia would apply such measures in a WTO-consistent manner and would take into account the interests of exporting WTO Members as provided for in Article III.9 of GATT 1994 in the application of its price controls.

18. A confirmation was also sought that Russia would publish notices of the goods and services subject to State price controls and would continue to do so after accession.

Competition Policy

19. Further details were requested on the role of the Ministry on Anti-Monopoly Policy and its interaction with other federal or sub-federal agencies with responsibilities in the competition field. Clarification was sought on the availability of public information, on the role and responsibilities of the Ministry vis-à-vis Russian and foreign companies and on specific actions taken by the Ministry (e.g. investigations, remedies in the case of anti-competitive practices etc.).

20. It was noted that the Russian Federation had indicated that the Ministry was already considering more than 6,500 claims of possible violations of anti-competitive practices, finding proof

of violations in 5,077 cases (78 per cent). In 1,764 cases (27 per cent), violations were eliminated or "other administrative orders" brought to effect, and in 3,441 cases (53 per cent) "penalties were imposed". In this regard, clarification was required on which sectors of the economy were concerned by these investigations and what remedies had been imposed.

FRAMEWORK FOR MAKING AND ENFORCING POLICIES

21. Information was requested on how the Russian Federation government was working with the Experts Committee of the Duma to ensure that WTO-inconsistent draft laws would not be enacted and that those already in place would be phased out. More information was also sought on the hierarchy of legislative acts in Russia, together with an explicit statement on the status of international agreements like the WTO vis-à-vis Russian law (document WT/ACC/SPEC/RUS/20 referred to "treaties" but did not clearly state that the WTO was deemed to be a "treaty" for this purpose), and a description of how, in legal terms, the protocol package would be ratified and WTO rules and commitments implemented in Russia. Further information was required on whether there were any areas relating to matters under WTO provisions where sub-federal entities might have exclusive jurisdiction. A clarification was therefore needed on whether the Russian Federation authorities would be required to submit the approved protocol package to sub-central entities for their approval in the ratification process.

22. Confirmation was sought regarding uniform application of WTO provisions throughout the territory of the Russian Federation as well as an unambiguous confirmation of the extent of central authority to enforce WTO requirements vis-à-vis sub-central entities (with legal citations). It was also felt that standard protocol commitment language would be required to clarify the right and the willingness of the central Government to take the initiative to overrule any WTO-inconsistent measures which might be identified and, as necessary, to provide the right of appeal to an independent tribunal or judicial review.

23. In addition, a more explicit description was required regarding to the right of administrative appeal, confirmed in WT/ACC/SPEC/RUS/20, in particular concerning the right of appeal to an independent tribunal or judicial review and the procedures applied (e.g. fees, timetables, etc.).

POLICIES AFFECTING TRADE IN GOODS

Trading Rights (the right to import and export)

24. It was noted that in document WT/ACC/SPEC/RUS/20 the Russian Federation confirmed the elimination of the state trading monopoly and described the nature of the requirements placed on individuals and firms that wish to import and export. More information was nevertheless needed on the draft "Laws on Registration of Enterprises and the Regulation of Trading Activity". In particular, an outline describing how these laws would make registration requirements for the right to import and export transparent and nondiscriminatory was requested. Information was requested on whether the requirement that import and export contracts be registered would be restored. More information was also needed concerning the requirements imposed by sub-federal entities on legal or natural persons that might affect their right to engage in importation or exportation of goods.

25. Concern was expressed at the restrictive consequences of the current system of activity licencing for the sale of alcoholic beverages. Information was requested on the Russian Federation intention to introduce new legislation in this area. Noting that the fees charged for the right to trade in imported alcoholic beverages greatly exceeded those charged for domestic distribution or export, it was felt that more detail was also required on this and on any other activity licencing fees associated with importation.

26. It was further noted that, typically in the accession processes, a commitment was taken that laws and regulations relating to the right to trade in goods and all fees, charges or taxes levied on such rights would be in full conformity with the acceding government WTO obligations, including Articles VIII:1(a), XI:1 and III:2 and 4 of the GATT 1994 and that the relevant laws and regulations would be applied in full conformity with these obligations.

1. Import Regulation

Customs Regulations and Customs Tariff

27. Noting that the "Law on Customs Tariff" pertaining to the application of customs duties, was being amended and that the Working Party would need to be able to review its provisions, information was sought on the relevant parts of the draft Law.

Tariff Quotas, Tariff Exemptions

28. A description of the current and prospective legal authority for auctioning licenses and how this provision had been used in practice was requested. In this regard, it was felt that such a method of allocating quotas or licenses was inconsistent with WTO provisions, e.g., Articles II, XI, and XIII of GATT 1994 and Article 4 of the Agreement on Agriculture, and consideration should be given as to how this practice should be amended or eliminated prior to the Russian Federation's accession to the WTO. It was also noted that, in any case, full details of tariff quota administration measures should be provided in order to assess their WTO conformity.

Other Duties and Charges

29. A commitment was sought that the Russian Federation would revise its domestic law/regulations in this area so as to eliminate and bind at "zero" any such charges that are not tariffs, domestic taxes applied to imports, or fees applied for services rendered in its Schedule upon accession.

Fees and Charges for Services Rendered

30. It was noted that the information on the Russian Federation's customs and other fees applied to imports provided in WT/ACC/SPEC/RUS/20 and WT/ACC/SPEC/RUS/21 was helpful. A description on how Russia intended to modify its current regime was deemed necessary as the Russian Federation indicated its intention to revise its import fee structure and that this was provided for in the new draft "Customs Code".

31. Noting that fees charged for customs clearance were calculated on an *ad valorem* basis, the question of how they would relate to the cost of services rendered was raised. The WTO rationale for charging fees for consular purposes at a lower rate from certain countries where the service was performed (the Baltic countries and CIS countries) was also questioned. Clarification was sought on any possible discriminatory aspect involved in the application of port user fees between foreign and domestic users. A clarification was also requested regarding the nature of the services rendered by the additional customs charge for customs clearance, and on the precise meaning of statements such as "for performing other notary actions" or "for the performance of the technical work for the making of the documents".

32. A commitment was sought that the Russian Federation would revise its domestic law/regulations to ensure that, upon accession, any fees or charges for services rendered related to importation or exportation would be applied only in conformity with Article VIII of the GATT 1994,

and that information regarding the application and level of any such fees, revenues collected and their use would be provided to WTO Members upon request.

33. Concerning fees that were applied only to imports for requirements normally applied to both imports and domestic products, e.g., for standards certification or vehicle taxes, these did not appear to be consistent with Article III, and it was felt that they should be revised or eliminated. A commitment was sought that any such fees would be applied in conformity with WTO provisions upon accession.

Application of internal taxes on imports

34. The comprehensive listing of excise taxes and other information on their application to domestic and imported goods contained in WT/ACC/SPEC/RUS/20 was noted with appreciation.

Excise Taxes

35. Noting that when excise taxes were collected on imports from CIS countries there was a deduction from the charge for excise taxes applied in the exporting CIS country, it was stressed that this could constitute an apparent violation of Article I. In addition, the differentiation of excise tax rates within specific categories of alcoholic beverage, e.g., for different types of beer, wine, and spirits, might have a *de facto* discriminatory effect on imports. A clarification was requested on the definition of cigarettes designated by "cigarettes with filter of 1,2,3 and 4 classes as per GOST" and on whether those were imported or domestically produced or both.

36. Noting further that differential rates of excise tax were levied on natural gas depending on whether it was sold in Russia, for export to other CIS countries (15 per cent), or whether it was for export to other countries (30 per cent), it was felt that this practice should be brought in conformity with the WTO upon accession. Moreover, a more detailed clarification was needed on the national treatment implications of calculating excise taxes on imports on the customs value plus the total of customs duties and levies payable, while the excise taxes on domestically produced goods were based on actual value only.

Value Added Tax

37. A confirmation was sought of the Russian Federation's statement that VAT was now applied in an uniform manner to all domestic and imported products and that was also the case with respect to CIS countries as from 1 July 2001. A clarification was also requested on whether the same principle applied to imports and exports of energy products such as gas and oil. A question was also asked concerning the different VAT treatment of ice-cream produced from milk and dairy products (10%) and ice-cream produced from fruits and berries (20%).

38. A confirmation was further sought that in no case VAT exemptions listed in Reference Paper 7 in WT/ACC/SPEC/RUS/21 were applied in a manner more favorable to domestic output than imports of similar products.

39. A commitment was required that, upon accession, Russia's domestic taxes, including VAT and excise taxes, and other taxes applied to goods, would be applied in a non-discriminatory manner to imports regardless of country of origin and to domestically-produced goods in compliance with Articles I and III of the GATT 1994.

Quantitative import restrictions, including prohibitions, quotas and licensing systems

40. Noting that the Russian Federation, under Federal Law No. 61-FZ, had introduced a ban on imports of ethyl alcohol as a temporary measure required to combat tax fraud, a clarification was requested on whether the Russian authorities still considered this ban temporary and what was the actual status of the ban and deliberations for its termination. A confirmation was sought that Russia would lift the ban prior to its WTO accession.

41. Regarding Russia's claim that import restrictions on alcoholic beverages would follow under GATT Article XI:2 (c) exceptions for agricultural products, it was felt that any recourse to these exceptions should be explained in detail. Moreover, it was noted that measures such as the ethyl alcohol import ban appeared to be prohibited under Article 4 of the Agreement on Agriculture.

42. Regarding Russia's statement that a justification to support the application of non-automatic import licenses for alcoholic beverages might be found under Article XX of GATT 1994, more explanation was deemed necessary to understand how the provisions in the chapeau of Article XX could be met in this case.

43. Concern was also expressed regarding how, once the ban had been lifted, imports of ethyl alcohol would be affected by Federal Law No. 1199 "On the Approval of Rules for the Issuance of Quotas for the Manufacture of Ethyl Alcohol from All Types and Special Permits for Its Delivery". As the said Law seemed to contemplate placing quotas on deliveries by domestic producers, the issue remained as to whether Russia eventually planned to place quotas on imports.

44. Noting that for alcoholic beverages, import licenses were only issued where the applicant already had an activity license, it was felt that further explanation was necessary on the rationale for this apparent double requirement. Information was also required on the number of licenses issued every year and on how many of these were currently in force.

45. As for the reference to a law, in force but not applied, that restricted imports of distilled spirits to no more than 10 per cent of the Russian market and stipulated that within this quota at least 60 per cent of imports must contain 15 per cent of alcohol or less, a clarification was sought as to whether the Russian authorities actually intended to repeal this law.

46. Noting that under this section there was no reference to any other quantitative import restriction, prohibition or quota, a clarification was requested on whether this would imply that the Russian Federation did not maintain any other such measures. A possible quota arrangement in relation to the importation of sugar from Ukraine was mentioned in this regard.

Import Licensing systems

47. It was noted that in the year 2000 the Duma's Health Committee had tabled draft amendments to the "Law on Medicines" which would have restricted imports of pharmaceuticals having domestic analogues. As it was felt that this draft law, if adopted, would have been a violation of GATT Article III and XI, a clarification on status of this legislative initiative was requested.

48. Regarding Government Resolution No. 1539 "On the importation in and the exportation from the Russian Federation of Medicaments and Pharmaceutical Substances", it was indicated that Paragraph 2 of this resolution appeared to suggest that foreign manufacturers must have offices in the Russian Federation in order to obtain an import license. In this regard, a clarification was needed if this would imply that foreign manufacturers of pharmaceuticals should have an office in the Russian Federation to obtain a license to import, as such a requirement would be WTO inconsistent. The Russian Federation was asked to elaborate on the purpose of these provisions, particularly in the case

of licensing products such as flavourings and dual use precursor chemicals, and on whether they require the examination of every contract to import.

49. Noting that pharmaceutical exporters had expressed concern over certain Russian import licensing requirements (for instance, if the molecule unique to the pharmaceutical had not changed, periodic renewal of licenses appeared unnecessary and could be expensive and burdensome to industry), it was asked whether such requirements were equally applied or not to similar domestic products, as they could constitute a violation of Article III. Noting further that some pharmaceutical exporters had expressed concern that the administration of licenses at MOH and MEDT did not presently meet WTO requirements such as transparency, fees for services rendered, processing within a reasonable timeframe and forbearance on minor documentation errors, a clarification was sought on the steps that the Russian Federation intended to take to ensure that the administration of import licenses would conform to WTO requirements.

50. Doubts were expressed regarding the explanation given in WT/ACC/SPEC/RUS/20 that the requirements for some of the items listed (e.g., certain metals and precious stones, ethyl alcohol, vodka, pharmaceuticals, and plant protection chemicals) were consistent with WTO provisions. In addition, it was argued that the prior authorizations required for importation of goods subject to Hygienic Assessment and Mandatory Certification could act as disguised barriers to trade or might not be applied uniformly to imports and domestic output.

51. Regarding the information provided by the Russian Federation in relation to goods subject to non-automatic licensing, more detail was required on how the Russian authorities considered that each of the requirements of Article 1 and 3 of the Agreement on Import Licensing Procedures had been met in relation to non-automatic import licensing in the administration of its TRQ for raw sugar (HS 1701.11).

52. A commitment was sought that, upon accession, Russia would apply import licensing measures, including those used for standards or sanitary certification, in conformity with WTO Agreements, in particular Articles XI, XII, XIII, XIX, XX and XXI of the GATT 1994, and the WTO Agreements on Agriculture, Sanitary and Phytosanitary Measures, Import Licensing Procedures, Safeguards and Technical Barriers to Trade. To facilitate this understanding, Russia was invited to update WT/ACC/RUS/10, the original description of the import licensing regime, and the information provided in WT/ACC/SPEC/RUS/1 and WT/ACC/SPEC/RUS/2 and to include information on the specific criteria for the application of the various licensing requirements.

Customs Valuation

53. It was reiterated that specific issues of concern in this area still included the use of *de facto* fixed import prices for some goods, the need to include more precise provisions for valuation of imports possibly involving related parties, and the inclusion of the Interpretative Notes to the Agreement in legal text. The use of fixed import prices was indicated as a priority issue. Any use of minimum or arbitrary valuation methods, even if intended to address a specific problem, must be eliminated prior to accession and replaced with procedures meeting WTO requirements.

54. Noting that the Russian Authorities had mentioned "a special technique of customs control" recently introduced by the State Customs Committee in order to prevent "gross under-invoicing" of customs value, a clarification was requested as to the modalities of application and legal justification of this special technique.

55. It was also noted that currently applied law did not fully appear to implement Article 13 of the Agreement on the Implementation of Article VII of GATT 1994 which provided for a guarantee system allowing an importer to withdraw goods from customs pending final determination of the

customs value if he provided sufficient guarantee. This was a critical provision in terms of ensuring that customs procedures do not, in themselves, block imports.

56. A confirmation was sought that relevant Customs decisions, e.g., Orders and Letters, and the decisions of local customs authorities, that traders needed to be able to review and understand, would be made available for this purpose to traders and other interested parties promptly and at reasonable cost. Information was required on how the Russian State Customs Committee and its sub-central affiliates, published and/or made available their rulings and other information for importers and exporters.

57. Further information was needed on the proposed new legislation in this area prior to meaningful discussions on the extent to which further adjustments would be required to bring the Russian practices in full conformity with WTO requirements. It was noted that the procedural protections in the WTO Agreement that facilitate importation were important benefits for WTO members and should be established in Russia upon accession.

Pre-Shipment Inspection

58. Noting that the Russian authorities had stated that Russia did not require any inspection services prior to shipment, a commitment was sought indicating that if such services should be employed in the future, they would conform to WTO provisions in their operations, e.g., in the application of fees for services rendered, observance of other WTO requirements in customs processing, and in providing right of appeal to the Government.

Rules of Origin

59. Noting that the rules of origin provisions contained in the "Law on Customs Tariff" did not appear to fully reflect the requirements of the WTO Agreement, it was felt essential to ensure that both the new draft Law on Rules of Origin and draft Amendments to the Law on Customs Tariff would provide revised rules of origin more consistent with WTO provisions. Clarification was also required on whether these new laws would cover both preferential and non-preferential rules of origin.

60. Particular interest was indicated in respect of provisions concerning the right to request an origin determination from the Government prior to shipment, and a commitment requested covering these provisions in line with the requirements of Article 2(h) and Annex II, paragraph 3(d) of the Agreement on Rules of Origin. In addition, it was also indicated that Russia's preferential rules of origin for CIS should fully reflect the interim rules of Annex II of the Agreement. In this regard, a clarification was needed on whether the "Decision of the Council of the Governments of the Commonwealth of Independent States on the Rules for the Determination of a Country of Goods' Origin" of 24 September 1993 would currently meet these requirements and a commitment was sought as to their implementation upon accession.

Anti-Dumping, Countervailing Duties, and Safeguard Regimes

61. Concerning anti-dumping, it was noted that the description of the current legislation provided by the Russian authorities did not appear to be consistent with relevant WTO provisions. In particular, investigations seemed to be limited to injury and causality aspects without requiring a proper determination of dumping, while any measures applied would be expected to remain in place for "a limited period of time necessary to eliminate injury", thus not necessarily complying with the 5-year maximum duration provided for measures undertaken under the WTO Anti-Dumping Agreement.

62. Concerning safeguards, it was felt that more information was required on the measures currently in place or under consideration by the Russian authorities (e.g. on caramels and steel) before making any assessment of their WTO compatibility.

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

2. Export Regulations

Export Restrictions

64. It was recalled that export duties acted as indirect subsidies to domestic down-stream users and could thus distort international trade. The comprehensive listing of export duties, the list of export restrictions and the information provided on licensing and other prior authorizations presented by the Russian authorities was all welcome information. Noting that Russia was preparing new legislation on import and export licensing and on application of standards and the certification of imports, it was felt that this information should be updated when that legislation was in a more advanced form.

65. In particular, more information was requested on the procedures followed and fees charged in connection with the issuance of export licences. A confirmation was sought that any fees charged on exports did relate to the cost of service rendered in accordance with WTO provisions. The Russian authorities were asked to inform the Working Party of any legislative changes affecting the general customs regulation of exports or any similar proposals. All restrictive measures which could not be justified under WTO provisions should be eliminated upon accession and should be apply in the future only if in conformity with these provisions.

Export Subsidies

66. The need to continue efforts to clarify whether benefits provided to certain exporting industries in Russia would constitute prohibited export subsidies was stressed. In particular, more information was sought regarding the price and availability of natural gas to certain export industries, e.g., fertilizer, vis-à-vis the price and availability to other commercial entities within Russia.

67. It was noted that Russia was developing a comprehensive draft law on State Aids that should address these issues and that deal comprehensively with subsidies, i.e., those provided for as "revenues foregone" through tax and tariff exemptions or special pricing policies, as well as those provided for in the budget. For subsidy measures ultimately identified, the request addressed to Russia was to revise its domestic law/regulations to eliminate prohibited industrial export subsidies upon accession.

68. A commitment was also sought that from the date of accession Russia would not maintain subsidies, including export subsidies which met the definition of a prohibited subsidy, within the meaning of Article 3 of the Agreement on Subsidies and Countervailing Measures, that it would not introduce such prohibited subsidies in the future, and that export financing and other export promotion policies would be operated in conformity with WTO provisions.

3. Internal Policies Affecting Foreign Trade in Goods

Industrial Policy, including Subsidies

69. Noting that WTO rules on subsidies covered state benefits given through revenues forgone, as well as those financed through budgetary allocations, it was felt that WT/ACC/SPEC/RUS/20 appeared to address the issue of prohibited subsidies but did not address other industrial subsidies that should be notified under the SCM Agreement, whether or not they are eliminated. The comprehensive draft law on State Aids should address these issues as well.

70. The Russian Federation was asked to describe its subsidy system more broadly and confirm that any subsidy programs would be administered in line with the Agreement on Subsidies and Countervailing Measures, whether at the national, sub-national, regional or local level, and that all necessary information on programs to be notified, if such exist, would be provided to the Committee on Subsidies and Countervailing Measures in accordance with Article 25 of the Agreement upon accession.

Technical Barriers to Trade

71. It was noted that, so far, the Russian authorities had provided a general outline of current elements of Russia's system of standards and certification, without including information on the required institutional arrangements. Russia's effort to amend the current system to ensure effective and ongoing compliance with TBT obligations also remained to be reviewed. It was generally understood, however, that Russia had new or amended laws in development on Standardization, Metrology, and Conformity Assessment whose provisions should address a number of the concerns expressed by the Working Party with Russia's current TBT regime, and might go a long way towards reforming the present system to prevent unnecessary technical barriers to trade.

72. More specifically, a description was now required on how the new legislation would address identified concerns such as the need for clarity in Russia's TBT legislation; for additional horizontal guidance to authorities on their development and application of technical regulations; for additional transparency and enhanced due process regulations; and for action to bring fees for conformity assessment services into line with WTO provisions. Russia should further describe its intentions to clarify and institutionalise, domestically, the responsibilities of various agencies in implementing the WTO Agreement on Technical Barriers to Trade, including the designation of an authority responsible for overall implementation and, more generally, the practical arrangements in place to ensure compliance of measures covered with WTO relevant provisions.

73. A commitment was sought from Russia to implement the Agreement on Technical Barriers to Trade upon accession.

Sanitary and Phytosanitary Measures

74. It was felt that the information provided in WT/ACC/SPEC/RUS/20 and WT/ACC/SPEC/RUS/21 was a useful compendium of current practice in the Russian Federation. This information was insufficient to assess to what extent this regime was consistent with WTO provisions. Information on currently applied phytosanitary measures was also required.

75. While recognizing that Russia was taking steps to strengthen its SPS regime and bring it into compliance with WTO rules, it was considered that there was still substantial work ahead for Russia to develop a predictable, transparent, and science-based regulatory system that would ensure due legal process and sustained adherence to international obligations. In practice also, much could be done to build confidence through better prior consultations with importers.

76. It was further stressed that Russia needed to bring its legislative and regulatory procedures into compliance, and provide the necessary documentation to demonstrate how these current deficiencies would be addressed. An update of the Russian Federation SPS Action Plan would be considered particularly helpful at this stage. More information was also sought on the inspection procedures and associated charges in force in relation to import of poultry meat and red meat as that available indicated that the effect of recently introduced measures had made the testing procedures in the country of export more burdensome and had raised the charges levied on imports.

77. A commitment was sought from the Russian Federation to fully apply the SPS Agreement upon accession.

Trade-Related Investment Measures (TRIMS)

78. It was felt that the information on TRIMS provided in WT/ACC/SPEC/RUS/20 did not fully address the issues that had been raised in the Working Party on the measures in place in the Production Sharing Agreements and the investment-promoting legislation for automotive sector and civil aviation. While understanding that these programs might be eliminated, a confirmation was sought from the Russian Federation together with a commitment confirming the elimination of any existing TRIMS upon accession.

State-Trading Enterprises

79. It was noted that Russia had identified five enterprises as state-trading enterprises that should be subject to notification under GATT Article XVII. One of these enterprises, Rosugol, was dissolved in November 1997.

80. More information was required on the role of marketing enterprises such as Exportkhleb, Prodintorg, and Roskhleboprodukt in agricultural trade, describing the legislation that had specifically ended the special rights and privileges that these organizations had traditionally received as monopoly trade or marketing entities.

81. Regarding a recent government resolution that imposed licensing requirements on procurement, processing, storing, and marketing of grain and grain products for state needs, as well as on production of most grain products (bread, flour, etc.), a clarification was requested on the purpose of these licenses, and on whether both foreign and domestic companies were subject to them.

82. Concerning reports that 150 bankrupt grain facilities (mills, storage facilities, etc.) had been reverted to state control, a clarification was requested on how this process was being implemented, and what role the government would play in the operation and management decisions of these facilities. Further information was also deemed necessary on the extent to which Russia's agricultural trade was still conducted through inter-governmental agreements between Russia and other countries, especially those in the CIS, and on whether any government-to-government barter arrangements were still in place.

83. In addition to listing state trading enterprises, a confirmation was sought that upon accession Russia's state-trading enterprises would be administered and operated in conformity with WTO provisions, including Article XVII and the Understanding. A confirmation was also sought that the laws and regulations governing the trading activities of State-owned enterprises, as well as enterprises with special or exclusive privileges (including practices such as state orders, purchases for state needs, state-designated trading, state goods distribution, government-to-government agreements for the supply/purchase of products, and state mandated counter-trade and barter), would be applied in conformity with WTO provisions, including GATT Article XVII, the Understanding on Article XVII and the Understanding on Article VIII of the GATS.

Free Zones, Special Economic Areas

84. More information was required to assess whether the existing free zone in Kaliningrad, or those provided for in additional legislation, might entail WTO issues. Issues raised in this connection questioned the basis on which goods manufactured in Kaliningrad were deemed to have transformed imported inputs sufficiently to eliminate the need to pay the duties and taxes exempted when the inputs were imported, and what other benefits, if any, in terms of tax exemptions, were available to firms that locate there. A description of the provisions for firms located in the Free Zones for Magadhan and Nakhodka was also requested.

85. It was stressed that Russia should revise its domestic laws and regulations to eliminate any measures in place in Russia's free zones or other special economic areas that were not in conformity with WTO provisions upon accession, in particular incentives tied to export requirements, other subsidies, and TRIMS, so as ensure enforcement of its WTO obligations in those zones. Russia was asked to consider the customary commitment to apply normal customs formalities on goods from the zones sold elsewhere in Russia, including the application of tariffs and taxes upon accession.

Government Procurement

86. Interest was expressed in a commitment from Russia to become an observer to the GPA and to initiate negotiations for accession to the Agreement on Government Procurement upon accession. Russia was also invited to include information on its government procurement practices in its future documentation.

87. Information was specifically requested on the status of proposed new legislation in this area. In addition, information was also needed on the involvement of the Russian government in barter trade, noting the legal basis for this as well.

Transit

88. It was indicated a sufficient description of Russian provisions on transit to confirm whether Russia's policies for trade in transit were in conformity with the provisions of the WTO Agreement, in particular Article V of the GATT 1994, was still required.

Agricultural Policies

89. A comprehensive submission of Russia's agricultural support policies, with emphasis on "green box" measures that can achieve Russia's reform objectives, was required in order to establish a detailed description of Russia's agricultural policies on which appropriate commitments could be determined.

Trade in Civil Aircraft

90. It was noted that Russia had indicated a willingness to join the Agreement on Trade in Civil Aircraft Agreement. A commitment was therefore sought that this will occur upon accession.

Trade Related Aspects of Intellectual Property Rights (TRIPS)

91. It was stressed that this area constituted a very important aspect of Russia's WTO accession process. The Russian authorities were invited to continue their efforts to fully implement the TRIPS Agreement and apply it upon accession.

92. Noting that the Russian government had prepared and introduced into the Duma legislation amending its copyright, trademark, patent and other intellectual property laws, including laws for enforcement of rights, it was felt that the provision of a clear timetable for the adoption of this legislation would considerably help the Working Party proceedings in this regard. It was further stressed that the Working Party should be kept informed of initiatives taken to reduce current high levels of piracy and counterfeiting.

93. A commitment was sought that Russia would be in compliance with the TRIPS Agreement upon accession, including with respect to its enforcement provisions.

POLICIES AFFECTING TRADE IN SERVICES

94. More information was deemed useful on Russia's progress towards establishing the required inquiry point and other transparency and procedural requirements for GATS.

TRANSPARENCY

Publication of Information on Trade

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

Notification

96. A commitment was required concerning Russia's initial notifications for all WTO Agreements, ideally upon accession, and that regulations subsequently enacted by Russia which gave effect to the laws enacted to implement any of the WTO Agreements would also conform to the requirements of that Agreement.

TRADE AGREEMENTS

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

98. A clarification was sought on how the Russian Federation intended to ensure compliance between its process of accession to the WTO and its commitments undertaken in the framework of the CIS Customs Union, notably with respect to the establishment of a common external tariff considering that a CIS country was already member of the WTO.

99. A commitment was sought that Russia would observe Article XXIV of the GATT and Article V of the GATS in its participation in trade agreements, and would ensure that the provisions of these WTO Agreements for notification, consultation and other requirements concerning free trade areas and customs unions were met upon accession, and that any subsequent legislation or regulations enacted or altered under these agreements would remain consistent with the provisions of the WTO. More specifically, Russia should, upon accession, notify its Free Trade Areas, Customs Union, and Economic Union Agreements for review by the Committee on Regional Trade Agreements (CRTA).
