WORLD TRADE ORGANIZATION

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Working Party on the Accession of the Russian Federation

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ACCESSION OF THE RUSSIAN FEDERATION

Attached is a consolidated list of follow-up comments, proposals and requests for specific information or clarification [1]relating to issues in the revised draft of the Working Party Report on the Accession of the Russian Federation to the WTO (document WT/ACC/SPEC/RUS/25/Rev.1 refers), together with comments submitted by the Russian Federation.

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[1] Outstanding issues emanating from document WT/ACC/SPEC/RUS/32 are included. The latest responses from the Russian Federation are in bold type.

No.	Paragraph No.	Comment
1.	**General**	At the March 6 meeting of the Working Party, the Chairman identified remaining sections of the revised draft Working Party report for further review and requested additional inputs be provided in time for consideration by the informal Working Party meeting scheduled for April 7-10, 2003. The purpose of the review is to develop the factual basis for further revision of the draft Working Party report. We had already submitted additional comments and questions on a number of these topics on February 7: under "Import Regulation," Other Duties and Charges, Fees and Charges for Services Rendered, Customs Valuation, Rules of Origin, and Other Customs Formalities; under "Export Regulation, " Other Customs Formalities; and Transparency, including Notifications. These comments and questions are included in WT/ACC/SPEC/RUS/32 and also below. We request that they be transmitted to the Russian Federation for response as part of the inputs for the April 2003 Working Party meeting. In addition, we are providing new comments and questions on the remaining two topics: Trade-Related Intellectual Property Regime and the Trade-related Services Régime. We also request that these inputs be transmitted to the Russian Federation, completing our submission for the April 2003 meeting. Based on our understanding that the main work of the April WP meeting will be to improve the factual basis of the draft report, we have limited requests for commitment language, and reserve the right to provide additional comments on possible commitment language at a later time, as well as any additional comments and specific drafting suggestions that may be required. We would also note that our previous general comments on developing the draft WP report text, reflected in WT/ACC/SPEC/RUS/29 and confirmed in WT/ACC/SPEC/RUS/31, remain part of our approach to this exercise.
2.	**8-10**	**ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE** **Economic Policies** **- Fiscal and Monetary Policies**
3.	**11-26**	**- Foreign Exchange and Payments System**
4.	11-26	**<u>Questions on the IMF's Approval</u>** According to the IMF Report (IMF Country Report No. 02/74), "Restrictions on advance import payments (exchange restriction). The authorities do not freely permit the making of all advance payments that are required under valid import contracts. Fund approval not granted". Could Russian Federation explain whether the following regulations are approved by the IMF? 1. Limitation on the period between advance payment and customs clearance 2. Requirement for Russian importers to make a deposit in Rubles corresponding to the amount of the advance payment paid in foreign currency. **<u>Specific questions on the draft law "On Currency Regulation and Currency Control"</u>** 1. <u>Limitation on the period between advance payment and customs clearance</u> After enforcing the draft law, will transactions, for which the period between advance payment and customs clearance exceeds 180 days, have restrictions imposed only in the three exceptional situations mentioned on page 8 of "WT/ACC/SPEC/RUS/29"? Apart from these three situations, can companies conduct transactions without permission from the CBR? Regarding transactions for which the period between advance payment and customs clearance does not exceed 180 days, are no restrictions imposed? 2. <u>Requirement for Russian importers to make a deposit in Rubles corresponding to the amount of the advance payment paid in foreign currency</u> After enforcing the draft law, will the requirement (for Russian importers to make a deposit in Rubles (which is 20% of the advance payment) be only imposed when the transactions for which the period between the advance payment and customs clearance exceeds 180 days in the three exceptional

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		situations mentioned on page 8 of "WT/ACC/SPEC/RUS/29"? When will this regulation be abolished? 3. <u>The mandatory requirement applicable to exporters of products from Russia to convert a certain percentage (from 50% to 30% in the draft law) of their foreign exchange earnings into domestic currency</u> When will this regulation be abolished?
5.	11-26	We welcome the new information provided by Russia on its draft Federal Law "On foreign exchange control and foreign exchange regulation". The inclusion of "proposed" elements of Russia's foreign exchange scheme with "existing" elements, however, introduces uncertainties as to what provisions will apply upon accession. We suggest that, at an appropriate point, this entire section of the report be re-drafted along the lines suggested in the general comments in WT/ACC/SPEC/RUS/29, i.e., by drawing out clearly which provisions will be superseded by new legislation, and those that will remain the same. We welcome the statement in Russia's response that, under draft legislation, current exchange transactions are to be "free". In relation to that statement, we seek clarification as to whether the proposed requirement that residents must ensure payments are deposited in accounts within a 180 day period in the case of prepaid imports will replace the current restriction of 90 days. - What provisions will be made for circumstances where performance of contract does not occur within that time period? - On page 12, Russia states that "it is quite possible" to prolong the current term beyond 90 days by obtaining CBR permission. We concur with the views expressed by Members under para 23 (page 6 of WT/ACC/SPEC/RUS/29) that the difficulties involved in obtaining approval would pose unnecessary additional transaction costs on importers (Article III of GATT 1994) and should be removed. In relation to the proposed mandatory sale of export earnings (up to a limit of 30 per cent of earnings), we strongly disagree with Russia's claim that it does not represent a violation of Article III or XI of GATT 1994. - Irrespective of whether exporters can acquire foreign currency on the internal market, this regulation requires exporters to dispose of their foreign currency and then re-purchase them at cost (i.e., exchange rate losses, payment of conversion margin), affording protection to domestic products (Article III). - By its very nature this regulation represents a restriction on both the importation and exportation of any product (Article XI). Russia has not addressed concerns raised under para 12 (page 5 of WT/ACC/SPEC/RUS/29) on the WTO inconsistency of the requirement to deposit an amount equal in value to the foreign currency purchased for the purpose of prepayment of imports. We look forward to a full response to this and other outstanding concerns.
6.	**40-52**	**- Pricing Policies**
7.	51	As it is stated in paragraph 51 of the draft report: "international treaties are binding throughout the entire territory of the Russian Federation". However, we are still witnessing violations of commitments undertaken by the Russian Federation under bilateral and multilateral arrangements affecting trade in goods and services. That is why we need the clear commitment to be undertaken by the Russian Federation, with reflection in the draft report, that it will strictly observe the provisions of international treaties. We would also like to have a clarification from the Russian Federation on the following question: in case if Russia's domestic legislation provides for conditions different from those stipulated by international treaties to which Russia is a party, can the legal primacy of international

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		treaties over domestic law be enforced without the need for complainants to seek a judgment of a court? If not, what are exact procedures to be followed?
8.	48-58	This delegation is disappointed with deleting the paragraph 72 from the document RUS/25, which deals with coordination of international and foreign economic ties of the subjects of the Russian Federation and asks the Secretariat to restore this paragraph in the current document together with the question posed by our delegation on this very issue which was reflected in document RUS/25/Add.1. Our delegation wishes to reiterate that the provisions of the Law of the Russian Federation on Coordination of International and Foreign Economic Ties of the Subjects of the Russian Federation are being constantly violated by the subjects of the Russian Federation. That is why we need explanations from the Russian Federation how it intends to ensure full observance of this law by its subjects. We also seek clear commitment from the Russian Federation that its federal or sub-federal entities will act strictly in conformity with the above-mentioned law fully respecting national legislation and interests of partners' countries.
9.	48-49	We are still concerned about the latest information given by Russian delegation that a possibility for discriminatory pricing for transportation on railway freight remains. We would like to express our interest to see what is the deadline for the second stage of tariff unification as explained in para 49?
10.	**53-54**	**Competition Policy**
11.	53-54	- As is indicated in the Report, the role of Ministry of Anti-monopoly Policy (MPA) is "to implement government competition policies and control the enforcement of anti-monopoly legislation." Please explain: - What is/are the major competition law/laws in Russian Federation? - What is the role of MAP in regulatory reform? How MAP resolves conflict with regulatory agencies, if there is any? What is the role of MAP in the transformation of market economy?
	53-54	**Russian Federation:** **The anti-competitive market structure and unfair business practices that impeded competition could be addressed through the application of the Anti-monopoly legislation. To this end, antimonopoly legislation had been adopted, including Federal Law No. 948-1 of 22 March 1991 "On Competition and Restriction of Monopoly Activity on Commodity Markets" (as amended on 24 June 1992, 25 May 1995 and 2 January 2000); Federal Law No. 2-FZ of 9 January 1996 "On Making Amendments and Supplements to Federal Law No. 2300-1 of 7 February 1992 "On Consumers Rights Protection" and the Code of the RSFSR On Administrative Offences" (as amended on 17 December 1999) and Federal Law No 117-FZ of 23 June 1999 "On Protection of Competition in the Financial Services Market". The Russian legislation in force contained, therefore, all the basic elements of state supervision and control over agreements (Concerted Actions) of economic operators restricting competition, abuse of dominant position on the market by economic operators, and economic concentration.** **The main functions of MAP included the introduction of legislative initiatives in the field of anti-monopoly activity, the development and execution of measures on demonopolization of production and distribution, the monitoring of compliance with anti-monopoly requirements in the establishment, reorganization and liquidation of economic enterprises. The Ministry conducted a preliminary review and control on establishment and mergers, the affiliation of commercial organizations or their association, transactions of acquisitions of rights or shares in the capital of commercial organization and receipt by a person (or group of persons) of ownership of fixed and intangible assets of another person. These functions were realized through prior approval or notification by antimonopoly organs. He added that under Article 71.g of the Constitution of the Russian Federation, competition policy did not fall within the jurisdiction of regional authorities.**

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12.	**55-65**	**FRAMEWORK FOR MAKING AND ENFORCING POLICIES** **Powers of executive, legislative and judicial branches of government;** **Government entities responsible for making and implementing policies affecting foreign trade;** **Division of authority between central and sub-central governments**
13.	55-65	The new information provided in this section is useful. We encourage Russia to address the substance of the questions raised by Members in relation to appeals procedures across other aspects of Russia's trade regime and how Russia intends to ensure action is taken against non-uniform application of trade-related measures.
14.	**66-80**	**POLICIES AFFECTING TRADE IN GOODS** **Registration requirements for import/export operations**
15.	66-80	Comments in SPEC/RUS/31: - We request that the Russian Federation provides a revised version of document WT/ACC/SPEC/RUS/21/Rev.1 – Reference paper 12 on Activities subject to licensing covering both goods and services as well as information on the licensing bodies, descriptions of criteria and the fees requested. - We thank the Russian Federation for providing an example on medicines describing the basic administrative measures necessary for carrying out activity in the field of medicines. The information contained in that document should be included under this section. - For clarity and transparency purposes, we suggest that the last part of paragraph 73 starting with "regarding importation of pharmaceuticals…" and paragraph 74 be included at the end of paragraph 72. - We have the same requests/comments as mentioned in document WT/ACC/SPEC/RUS/30 on paragraph 72. - We appreciate the information provided in RUS/31, especially those relating to paras. 68, 72 and 79. The inclusion of this information in the draft report will help to better understand how the Russian system for importing pharmaceutical products works and clarify the draft report on this issue. We also think that the draft report should be updated with reference to the new draft Law on State Regulation of Foreign Trade Activity and other relevant legislation. - In § 71 and in answer in RUS/31, the Russian delegation indicated that all Russian participants of foreign trade activities were permitted to undertake foreign trade activities. What is meant by "all Russian participants " ? Is it the legal entities and natural persons mentioned in § 73 of the draft report (= Answer at p. 12 in RUS/31). In addition the new para. 73 in RUS/31 does not give additional information as it only includes paras. 72, end of §73 and §74 together. - In addition no answer has been provided to our request regarding the need to update Reference paper 12 in SPEC/RUS/21/Rev.1.
16.	**66-80**	**<u>Russian Federation:</u>** **In order to ensure sustainable economic development of the Russian Federation the draft law "On the Fundamentals of State Regulation of Foreign Trade Activity" was elaborated to reflect the latest changes in Russia's legal system, namely, adoption of the Civil Code of the Russian Federation, the Tax Code of the Russian Federation, and the implementing legislation. The law will replace the current Federal law No.157-FZ of 13 October 1995 "On State Regulation of Foreign Trade Activity" making amendments which are vital in determining the terms of participation of foreign and domestic companies in the civil procedures, in particular, in their access to market, and the nature and forms of relationship between the state and business.** **The draft law incorporates the relevant provisions of the GATT 1994, GATS, and Agreement on Import Licensing Procedures. The principles of the state regulation of foreign trade activity established by the draft law include unity of the customs territory of the Russian Federation; state protection of rights and rightful interests of both domestic and foreign participants of foreign trade activity; unity of the implementation of the instruments of the trading policy on the overall territory of Russia; equality and non-discrimination of legal entities and individuals involved in the foreign trade activity; transparency in the elaboration, adoption and implementation of measures of state regulation of foreign trade activity; justifiable and objective implementation of measures of state regulation of foreign trade activity; prevention of the**

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		unjustifiable interference of the state and its bodies in foreign trade activity, etc. **The draft law is structured to ensure full transparency and understanding in applying it to international trade in goods, services and intellectual property.** **The draft law contains provisions on national treatment for trade in goods and services which originate from the territories of other WTO members. The provisions were drafted to comply with the respective provisions of the GATT 1994 and GATS.** **The draft law establishes freedom of transit through the territory of the Russian Federation via air, sea, railway and road routes, which are most convenient for international transit. The law makes no distinction based on the flag of vessels, the place of origin, departure, entry, exit or destination, or on any circumstances relating to the ownership of goods, of vessels or of other means of transport. Together with the new Customs Code which was elaborated recently and is awaiting its first reading in the State Duma the draft law complies with the provisions on freedom of transit set in the GATT 1994.** **To ensure transparency the draft law requires official publication of regulations, which relate to foreign trade activity. The draft law also envisages provision of information to legal entities and individuals involved in foreign trade activity. The federal executive body responsible for the information support shall be appointed by the Government of the Russian Federation. The information provided concerns domestic and foreign legal entities and individuals involved in foreign trade activity on the Russian market; Russian and foreign legal system regulating foreign trade activity; regulations of the Russian Federation on standardization and certification; the list of goods whose import and export is prohibited on the territory of the Russian Federation; other information.** **The draft law establishes prohibiting and restricting measures which are applied to international trade in goods, services and intellectual property and constituted general exceptions which comply with the relevant WTO provisions and security exceptions which envisage measures related to ensuring state security in time of war or other emergency; participation in international sanctions under the United Nations Charter; protection of Russia's external financial difficulties and maintaining its balance of payments; currency regulation and currency control under the relevant Articles of the Agreement of the International Monetary Fund. The measures applied shall not be based on arbitrary or unjustifiable discrimination between the states or be hidden restrictions to international trade in goods, services and intellectual property.** **The prohibiting and restricting measures established by the draft law are applied to the extent of the necessity to protect public morals; to protect human, animal or plant life or health; to protect cultural valuables; when they relate to the importations or exportations of gold or silver; relate to the conservation of exhaustible natural resources if such measures are taken in conjunction with restrictions on domestic production or consumption conformity; etc. The prohibitions and restrictions shall not serve a means of unjustified discrimination between the contracting parties or be hidden restrictions to international trade in goods.** **The national treatment of goods implies a no less favourable treatment accorded to the goods of the territory of any contracting party and imported to the territory of the Russian Federation than that accorded to like goods of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use. These provisions shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product. The national treatment to services implies that the Russian Federation should accord to services and service suppliers of any other contracting party, in respect of all measures affecting the supply of services, treatment no less favourable than that it accords to its own like services and service suppliers.**
17.	**85-90**	**- Ordinary Customs Duties**
18.	85-90	Need a reference to bilateral market access negotiations on goods + problem of double MFN tariff rates to goods originating from WTO Members. Again no answer provided by Russia.

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19.	**91-96**	**- Tariff Quotas**
20.	91-96	- Problem of Russian proposal to introduce new tariff quota to restrict market access + question of qualification to receive a quota and WTO conformity of type of allocation method used. - In SPEC/RUS/31 at page 18 tariff quotas are mentioned for only three products (white sugar, beef and pork). During the last WP (January 2003), the Russian Federation indicated that a tariff quota would be introduced on poultry for 4 years. This information is not reproduced in page 18 and we request that it be included like the tariff quotas for beef and pork.
21.	**98-99**	**- Other Duties and Charges**
22.	99	Russia should confirm that "other duties and charges" applied to imports will be bound at zero in its Goods Market Access schedule.
23.	98-99	The para. 297 or the draft report states, "For the illegal copies, the right holder could request to take them. ... Concerning the Superior Arbitration Court's practice, the Court issued a decision on confiscation and destruction in cases where the right holder did not request the goods to be transferred to him. ". In this respect, we would like to ask for more information on whether this provision relates to films and phonograms or to goods produced with violation of rights of holders of trademarks or to all aforementioned? If the provision relates also to films and phonograms, what is the arrangement for the holder to use or sell these items? Is it stipulated in a legal document or it is discretion of the right holder?
24.	**98-99**	**Russian Federation:** We suggest replacing in para. 102 the words "according to the new draft Customs Code" with "in accordance with the draft Chapter 25.1 "Customs Duty and Customs Charges" of Part II of the Tax Code of the Russian Federation and the draft new version of the Customs Code of the Russian Federation", which would correctly reflect the structure of the legislation of the Russian Federation on taxes and levies and the content of the above draft laws which have been presented by the Government of the Russian Federation to the State Duma.
25.	**98-99**	**Russian Federation:** There are no requirements in the Russian consulates to have consular documents (consular invoices and certificates) or consular visas for performance of import/export transactions. Furthermore, no special consular fees connected with the export or import of goods or services have been instituted. The activities of consulates are governed by worldwide accepted provisions of international law (in particular Vienna Convention 1963). Thus, the issues on consular fees should be excluded from the Draft Report as they are not connected with importation and exportation.
26.	**100-107**	**- Fees and Charges for Services Rendered**
27.	100-102	The text of this Section should be updated to give additional specific information on the unified customs fee: - whether the unified Customs fee will replace all other Customs charges on imports except for customs escort, or if not, information on any Customs charges that will continue; - the status of the legislation that will establish and administer the fee and whether further regulation will be necessary to implement the fee; - the scope of application, in terms of goods and exporting countries covered or exempted; - the legal basis and level of application; - what the revenues collected will be used for; - the relationship between the revenues collected and the cost of the services for which the fee is applied; and - how Russia will insure that the revenues collected are used solely for providing these services, and that none of the revenues are used for the customs clearance of exempted imports or exports.

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28.	Tables 10-13	- Tables 10-13 should be comprehensive. If they are not, additional information should be provided to make them so. - Has the legal authorization for the measures noted in the first and third "notes" to the Table listing Consular fees been eliminated?
29.	100-107	The table of fees levied for consular purposes (Table 12) includes a number of consular fees with a potential impact on trade, in particular (1) fees for certification and notarisation of documents, (2) fees for notarisation of agreements subject to evaluation, (3) fees for notarisation of authentication of signature, (4) fees for consular service of sea- or aircraft, including for issuing certificates of loading or unloading, for notarisation of various certificates and applications, including the cargo certificate, and for notarisation of sanitary certificates. Russia needs to respond to the questions we have already posed in order either (a) to demonstrate that in fact these fees are not in any way connected with trade and therefore are not covered by GATT Article VIII requirements, or (b) to specify what steps it is taking to ensure that such fees are levied on a non-discriminatory and WTO-consistent basis.
30.	100-107	The text of this Section should be updated to give additional specific information on the unified customs fee: - whether the unified Customs fee will replace all other Customs charges on imports except for customs escort, or if not, information on any Customs charges that will continue; - the status of the legislation that will establish and administer the fee and whether further regulation will be necessary to implement the fee; - the scope of application, in terms of goods and exporting countries covered or exempted; - the legal basis and level of application; - what the revenues collected will be used for; - the relationship between the revenues collected and the cost of the services for which the fee is applied; and - how Russia will insure that the revenues collected are used solely for providing these services, and that none of the revenues are used for the customs clearance of exempted imports or exports.
31.	103-107	- <u>Stamp Tax, State Duties, and Consular Fees</u> Paras 104-6: Russia should expand the text to distinguish stamp taxes from State Duties in terms of their purpose, incidence, and application, and respond to WP Members ' questions and state unambiguously in the text whether customs documents are, or are not, considered to be "vital records" or "other legally significant actions performed by vital statistics offices," i.e., subject to the stamp tax or state duties. Paras 106-7: The text should include responses to Members' questions concerning the extent to which consular fees are applied to pay for services involving import or export documents, which documents requiring the fees are trade-related, and if their use in importation and exportation is optional or mandatory.
32.	Tables 10-13	- Tables 10-13 should be comprehensive. If they are not, additional information should be provided to make them so. - Has the legal authorization for the measures noted in the first and third "notes" to the Table listing Consular fees been eliminated?
33.	**103-104**	**<u>Russian Federation:</u>** The term "stamp tax" mentioned in the paragraphs 103-104 and Table 11 should be read "state duty".
34.	**100-107**	**<u>Russian Federation</u>** **Consular offices in the Russian Federation followed in theirs activity by provisions Vienna Convention "On Consular relation on 1963". Under paragraph 1 Article 39 mentioned Convention said that consular offices can raise fees and duties for consular acts on territory country of stay under the laws and rules of the representative country.** **The legislation, which determines the amount of consular fees is Tariff of Consular Fees of Russia on 1993 (applied in foreign country), Tariff of Consular Fees of Russia on 1994 (applied in CIS and Baltic country). The documents said above adopted under Article 59 Consular**

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		Charter of the Russian Federation, in accordance with currently legislation of the Russian Federation and approved by Ministry of Foreign Affaires of the Russian Federation in cooperation with Ministry of Finance of the Russian Federation. **If citizens of the third countries appeal to the consular offices of the Russian Federation in the CIS and Baltic countries, consular fees are collected in accordance with Tariff 1993. Applications usually occur on a visa questions.** **In accordance with the paragraph 106 the Russian Federation doesn't make consular acts connected with trade operations. The other consular acts are regulated by other international treaties and national legislation the WTO provisions do not cover them.**
35.	**100-110**	**- Fees and Charges for Services Rendered**
36.	99-100	Our delegation expresses its concern about the double standard policy pursued by the Russian Federation while collecting the consular fees from our nationals, according to which the Russian Federation accords the privileges to and exempts from payment of certain consular fees specific groups of population based on their ethnicity and places of origin and for example, our nationals from Abkhazian and South Ossetian regions are considered/treated as Russian nationals. Our delegation urges the Russian Federation to apply the uniform consular fee policy towards all our nationals and eliminate the current practice prior to its accession to the WTO.
37.	**111-116**	**Application of Internal Taxes on Imports** **- Excise Taxes**
38.	111-116	(not reproduced in SPEC/RUS/31): In para 115 a Member raised the issue of the calculation of excise taxes on imports on the customs value plus the total of customs duties and levies payable versus the calculation of excise taxes on domestically produces goods on the basis of the actual value only and raised the question of its national treatment implications.
39.	116	RUS/25 - §127 + RUS/25/Add.2 answer 36 + mention au § 116 du RUS/25/Rev.1: In your answer you mentioned that a new scale of excise taxes on cigarettes was scheduled to enter into force from the 1 January 2003. Please provide this new scale to the Working Party.
40.	111-116	In para 115 a Member raised the issue of the calculation of excise taxes on imports on the customs value plus the total of customs duties and levies payable versus the calculation of excise taxes on domestically produces goods on the basis of the actual value only and raised the question of its national treatment implications. As it does not seems that the Russian delegation addressed this concern, we would welcome an answer.
41.	**111-116**	**<u>Russian Federation</u>** **Ad valorem excise tax was used only for natural gas. The excise tax was not levied on natural gas imported to Russia. The excise tax established in the Russian Federation for natural gas was in fact a natural rent royalty paid to the state by gas extracting companies. This rent made no influence either on the level of export prices for gas or on the export flows of gas. In this respect the existing procedure of levying the excise tax for natural gas was in compliance with WTO rules and disciplines. He also added that the ad valorem part of combined rate of excise tax for cigarettes was equal to one per cent. The methodology of accruing the tax basis described in WT/ACC/SPEC/RUS/25/Rev.1 could not hamper imports.** **The new scale of excise tax was provided to the WTO as Table 14 of WT/ACC/SPEC/RUS/25/Rev.1.**
42.	**117-125**	**Value Added Tax**
43.	117-125	In §119 some Members asked the Russian delegation to indicate how and in which time frame Russia intended to convert its taxation system with Belarus (principle of country of destination instead of country of origin for domestic taxes). We seek additional specific information on Russia's plans for eliminating this preferential treatment for Belarus and a commitment to provide full MFN treatment. La réponse des Russes concerne le §120 dans RUS/25/rev.1 et reprend une partie de ce texte. La réponse n'est pas très exhaustive. Table 15: information contained in this table need to be updated to reflect changes implemented in January 2002.

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44.	**117-125**	**<u>Russian Federation</u>** **The Russian Federation and the Republic of Belarus are the parties of the bilateral Treaty "On the Creation of the Union State" of 8 December 1999 leading, inter alia, to the formation of a unique economic space based on the unified legislation. Both states are negotiating the issues of taxation within this unique economic space. In this regard a draft agreement on the procedures of compensation of losses of the budgets applying indirect taxes in bilateral trade on the basis of country of origin has been placed for consideration.**
45.	**126-129**	**Quantitative Import Restrictions, including Prohibitions and Quotas**
46.	126-129	The Decree of the State Customs Committee of the Russian Federation No. 531 dated 12 August 1999 defines limited number of customs check-points (sea ports only), through which the import of poultry products to the Russian Federation from countries not having inland transport communications with the Russian Federation is allowed. The provisions of this Decree do not apply for export operations carried out by, for example, our economic entities through existing inland customs check-point, if the country of origin of poultry products is from our country. At the same time Russia does not allow the import of poultry products from third countries using our country as a transit country. In our point of view, the above-mentioned Decree of the State Customs Committee represents nothing else but hidden barrier to trade, which diminishes the transit potential of the neighbouring country. If Russia authorizes our economic entities to export poultry products of its domestic origin to Russian market through existing customs check-point then why it does prohibit third countries to export poultry products of their domestic origin by transit through our territory? Besides, we would like to recall the previous meetings when our delegation was explained that Russian authorities do not have veterinary inspection unit at our border. If such measures exist in case of import of poultry products originated from our country, which does not have yet capacity and capability to export this product to Russia, then why they do not apply to imports from third countries going by transit through our territory. What is the rationale and the WTO justification for limiting number of frontier customs offices for export of poultry products? We urge the Russian Federation to simplify above-mentioned restricted regime and to authorize the customs authorities to handle the export operations of poultry products to Russian market at the equal footing, notwithstanding the origin of these products.
47.	126-129	We would welcome updated information on the status of the legislation that eliminates the ban on import of alcohol. We value the efforts of the Russian Federation to make the necessary amendments to the Federal Law "On State Regulation and Turnover of Ethyl Alcohol, Alcoholic and Alcohol Containing Products" currently being considered in the State Duma. At the same time we would appreciate if the Russian Federation could provide us with more detailed information and if possible preliminarily on a timetable for enactment of this legislation. Besides, we welcome and encourage the desire of the Russian Federation to use automatic import licensing regime for ethyl alcohol while ensuring full WTO compliance in this respect. A few years ago, on the request made by our side to allow the export of alcoholic beverages to Russian market through existing legal customs check-point the Russian Federation responded that due to the absence of necessary facilities at the customs post it cannot allow our producers to export alcoholic beverages to Russian market through this channel. Regrettably, nothing has been changed in this respect so far. Accordingly, we would like to request the Russian Federation to provide relevant information and future plans on preparedness of the legal customs check-point in order to allow the export of alcoholic products from our country using the only legal channel. We would like to state that the formalities maintained by the Russian Federation in this respect towards our exporters represent nothing else but restrictive measures and hidden barriers to trade. Accordingly, we seek commitment language from the Russian side on this matter and ask the Russian Federation to eliminate these discrepancies prior to its accession to the WTO.
48.	**126-129**	**<u>Russian Federation:</u>** **Recently the Russian Federation introduced measures in the following areas:** **1. The import quotas were introduced by the Governmental Resolution of Russian Federation № 48 of January 21, 2003 "On measures to protect the poultry farming of the Russian Federation" for the period of 4 years with the purpose of protection of economic interests of**

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		the Russian poultry farming on the basis of articles 4 and 6 Federal Law № 63-FZ of April 14, 1998 "On the measures for protection of the economic interests of the Russian Federation in foreign trade in goods" following respective investigation. **<u>Product specification</u>** **Quotas are imposed for import of fresh, chilled and frozen poultry under HS Code 0207 including deboned poultry (020714100 and 0207271000 HS Code).** **<u>Reference:</u> at the present time an offer of excluding of line of rolling meat from the total amount is under examination.** **<u>Bodies responsible for issuance of the licenses</u>** **Licenses for import of poultry are issued by the representatives of the Ministry of Economic Development and Trade of the Russian Federation in the regions of the Russian Federation to importers:** **⇒ that are mentioned in the list placed at the site of the Ministry and within the quota allocated on importer to importer basis** **⇒by the representative, on the territory of which importer is registered as legal entity or private entrepreneur.** **The list and addresses of representatives, and the information about allocation of quota may be found at www.economy.gov.ru** **<u>Time limits and document requirements</u>** **The licenses will be issued by representatives from April 1, 2003 after receiving the following documents:** **an application for the license,** **a copy of a certificate confirming that the applicant is registered by a regional tax authority as a tax-payer.** **Issuance of the licenses will be done automatically and will be finished on April 29, 2003.** **<u>Validity of the licenses</u>** **Import licenses are to be issued for every commercial contract for import of poultry classified at 10 digit level of HS Code of Russia.** **The licenses will be valid till December 31, 2003.** **<u>Criteria for refusal</u>** **There will be no refusals for issuance of the licenses provided importer has submitted two necessary documents.** **<u>Fees</u>** **The fee for issuance of the license is three thousand roubles. It will not be reimbursed in case the importer will not use the license.** **<u>Other limitations</u>** **The licenses cannot be transferred.** **<u>Disputes and responsible bodies</u>** **Any disputes connected with issuance of the licenses may be referred by the importer:** **⇒ to the Ministry of Economic Development and Trade of the Russian Federation, Department of non-tariff regulation, head – Mr. Y. Bujkin, tel. (7095) 9501928, fax (7095) 9509782, e-mail: andreev_aa@gov.ru** **⇒to the court.**

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		<u>Use of quota</u> **Quotas stayed non-chosen due to cessation of activity of some importers, non-address for license or because of other reasons will be passed to acting participants of the market. (*Machinery of transference of non-chosen quotas is under elaboration and concordance)*.** **Decision of application of quotation of poultry on 2004 will be taken on the basis of observations and offers, that present to the Government of Russia in the 4-th quarter of 2003.** **2. Tariff quotas were introduced by the Governmental Resolution of the Russian Federation of January 21, 2003 № 49 and № 50 "On amendments to the Customs Tariff of the Russian Federation" are established quotas for import of frozen meat of bovine animals (HS Code 0202) and fresh, chilled and frozen pork (HS Code 0203) for the period of one year with the purpose of protection of national interests of the Russian Federation.** **<u>Bodies responsible for issuance of the licenses for import of 90% of the volume of meat</u>** **Licenses for import of 90% of the volume of meat are issued by the representatives of the Ministry of Economic Development and Trade of the Russian Federation in the subjects of the Russian Federation and certain regions of the Russian Federation to importers:** **⇒ that are mentioned in the list placed at the site of the Ministry and** **⇒within the quota allocated on importer to importer basis** **⇒by the representative, on the territory of which importer is registered as legal entity or private entrepreneur.** **The list and addresses of the representatives, and the information about allocation of quota may be found at www.economy.gov.ru.** **<u>Time limits and document requirements</u>** **The licenses will be issued by the representatives from April 1, 2003 after receiving the following documents:** **⇒an application for the license,** **⇒a copy of a certificate confirming that the applicant is registered by a regional tax authority as a tax-payer.** **Issuance of the licenses will be done automatically.** **<u>Validity of licenses</u>** **Import licenses are to be issued for every commercial contract for import of meat.** **The licenses will be valid till December 31, 2003.** **<u>Criteria for refusal</u>** **There will be no refusals for issuance of the licenses provided importer has presented two required documents.** **<u>Fees</u>** **The fee for issuance of the license is three thousand roubles. It will not be reimbursed in case the importer will not use the license.** **<u>Other limitations</u>** **The licenses cannot be transferred.** **<u>Allocation procedure of 10% of volume of meat</u>**

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		The remaining 10% of volumes of meat will be auctioned by Dutch method. **The auction will be carried out at a Russian stock exchange approved by the Commission on stock exchanges of the Ministry for Anti-Monopoly Policy and Support of Entrepreneurship of the Russian Federation on the following terms:** **free resale of lots is not allowed;** **in case the lots are not sold completely or the winner of the auction does not pay the lot it will be auctioned again.** **Every importer registered in Russia may participate in the auction.** **For pork there will be 33 lots 1000 tons each and one lot of 750 tons.** **For meat of bovine animals volume of total amount (31,5 thousand tons) of the tariff quota will be divided into 63 lots.** **<u>Bodies responsible for issuance of the licenses for import of 10% of the volume of meat</u>** **Licenses for import of 10% of the volume of meat are issued by the representatives of the Ministry of Economic Development and Trade of the Russian Federation in the subjects of the Russian Federation and certain regions of the Russian Federation to importers:** **⇒ to the winner of the auction** **⇒by the representative, on the territory of which importer is registered as legal entity or private entrepreneur.** **<u>Time limits and document requirements</u>** **The licenses will be issued by representatives from June 1, 2003 after receiving the following documents:** **certificate of the winner of the auction;** **an application for the license;** **a copy of a certificate confirming that the applicant is registered by a regional tax authority as a tax-payer.** **Issuance of the licenses will be done automatically.** **<u>Validity of licenses</u>** **Import licenses are to be issued for every commercial contract for import of meat.** **The licenses will be valid till December 31, 2003.** **<u>Criteria for refusal</u>** **There will be no refusals for issuance of licenses provided importer has submitted all necessary documents.** **<u>Fees</u>** **The fee for issuance of the license is three thousand roubles. It will not be reimbursed in case the importer will not use the license.** **<u>Other limitations</u>** **The licenses cannot be transferred.** **<u>Responsible departments and disputes</u>** **Any disputes connected with issuance of the licenses may be referred by the importer:** **⇒ to the Ministry of Economic Development and Trade of the Russian Federation, Department of non-tariff regulation, head – Mr. Y. Bujkin, tel. (7095) 950-19-28, fax (7095) 950-97-82,** **e-mail: andreev_aa@gov.ru** **⇒to the court.**

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		Any disputes connected with carrying out the auctions may be referred by the importer: **⇒to the Ministry of Economic Development and Trade of the Russian Federation, Department of tariff regulation, head – Mr. A. Kushtnirenko, tel. (7095) 950-96-49, fax (7095) 950-19-95,** **e-mail: dtreconomy@mail.ru.** **⇒to the court.** **<u>Use of quota</u>** **Quotas stayed non-chosen due to cessation of activity of some importers, non-address for license or because of other reasons will be passed to acting participants of the market. (*Machinery of transference of non-chosen quotas is under elaboration and concordance).*** **Decision of conditions and methods of the following application of tariff regulation of beef and pork will be taken on the basis of observations and offers, that present to the Government of Russia in the 4-th quarter of 2003.** **3. The quantitative restrictions for import of limited list of narcotic means are established by the Governmental Resolution of the Russian Federation of August 03, 1996 № 930 "On the approval of nomenclature of narcotic drugs, psychotropic and poisonous substances which are covered by the procedure for import to the Russian Federation and export from the Russian Federation approved by the government resolution of the Russian Federation of March 16, 1996 No. 278 as well as import (export) quota of narcotic substances" with the purposes of performance by Russian Federation of the international obligations, and its application corresponds with the article XX (в) GATT "General exceptions ".** **<u>The following quantitative export restrictions and prohibitions applied in the Russian Federation:</u>** **1. Quantitative restrictions for export of sturgeon species of fish and products made there of including caviar are established annually by Governmental Resolution of the Russian Federation with the purpose of performance by Russian Federation the Convention of March 3, 1973 "On international trade by kinds of wild flora and fauna which are under threat of disappearance including sturgeon" and their application corresponds with the article XX (в) GATT "General exceptions ".** **2. Palladium and metals of the palladium group and raw material of colour metals containing precious metals are established annually according to the President Decree of the Russian Federation of June 21, 2001 № 742 "On the importation into and exportation from the Russian Federation of precious metals, precious stones and raw-material goods containing precious metals" with the purposes of protection of national values and its application corresponds with the article XV:9 (в) GATT.** **3. Diamonds are established by the President Decree of the Russian Federation of November 30, 2002 № 1373 "On approval of the regulation on import to the Russian Federation and export from the Russian Federation of natural diamonds and brilliants" with the purposes of protection of national interests.** **4. The prohibition for export of wastes and scrap of the precious metals and precious metals ores and concentrates is established by the President Decree of the Russian Federation of June 21, 2001 № 742 "On the Importation into and exportation from the Russian Federation of precious metals, precious stones and raw-material goods containing precious metals" and connected with impossibility of exact definition of containing precious metals, that creates the preconditions for abusing and drawing of damage to economic interests of the Russian Federation and its application corresponds with article XXI (в) (ii) GATT.** **<u>Reference:</u> The question for the abolition of a prohibition or quoting of the goods mentioned in paragraphs 2-4 will be considered after adopting of a new edition of the Federal Law of the Russian Federation of October 9, 1992 No. 3615-1 "On currency regulation and currency control. The given draft law is on consideration in the State Duma of Russian Federation.**

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49.	**130-141**	**Import Licensing Systems**
50.	130-141	In §**132** Members expressed many concerns and questions about licensing requirements for pharmaceutical products, i.e. the periodic re-registration requirement that is not automatic. Once again we thank the Russian Federation for providing a table explaining the import procedure applicable to pharmaceutical products. In connection with §72, it seems that in order to import pharmaceutical products in Russia, the applicant must get an activity license, a preliminary import permit (from the ministry of Health (§134) and an import license (§137). The procedure to import pharmaceuticals in Russia is not simple and could act as a non-tariff measure. Thus we request that the Russian import regime for pharmaceutical products be streamlined and simplified in line with the Agreement on import licences. Please explain the rationale of the preliminary permit in § 134 and how is it consistent with the Import licensing Agreement (article 1.6 LIC: Application procedures shall be as simple as possible), in which way this preliminary permit is different from an import license ? What is the period of validity of such a permit ? In **§ 134** the 0.05% fee on the contract value of goods is not compliant with article VIII GATT because it does not correspond to the cost of service rendered. In § 140 the Russia delegation indicated that legislative and regulatory framework to modify procedures on imports of pharmaceutical products was currently ongoing. Please indicate what are the modifications foreseen and if they will repeal also the 0.05% fee of the contract value of goods for issuance of a preliminary permit. How will the import procedures for pharmaceutical products be simplified and streamlined ? § **136** mentions that Members expected the Russian Federation to make a commitment that any import licences on ethyl alcoholic beverages and pharmaceutical products should be granted automatically on the basis of a regime compatible with WTO requirements including art.2 LIC. We urge the Russian delegation to take such a commitment. **§139**: Please indicate what have been undertaken to amend or repeal Law No 86 “On Medicines”. Has the new draft Laws on Foreign trade and Import/Export Licensing Law been adopted yet ? What will be the main changes introduced by this law ? We also associate with the comments contained in SPEC/RUS/30 page 7 regarding § 134-140 and in SPEC/RUS/31 p.22. (Une licence ne permet pas de garantir que le produit est sûr= safe)) As regards the <u>table on the basic administrative measures for carrying out activity in the field of medicines</u> that the Russian Delegation gave us at our last meeting, we consider this document very useful and request that the information contained in this table be included in the revised draft report. In addition we seek clarification on the following points: At **page 3 of the table**, under V (<u>Import medicines and pharmaceutical substances in the Russian Federation</u>, it is indicated that the Ministry of Health issues the document of approval. The Federal Law no 86-FZ On Medicines of June 1998 and the Order of the Government no 1539 do not fix the duration of issuing of the document of approval which can take up to15 days, but can be shorter which is a factor causing uncertainty and additional costs. As regards costs, the table indicates that the fee to be paid to get the document of approval is equal to 0.05% of the value of the contract. Once again, we underline that this fee is not consistent with Article VIII GATT as it does not correspond to the approximate cost of the service rendered. Thus, we request that this fee is modified in order to be consistent with Article VIII GATT. At **page 4** (<u>licensing of imports of medicines</u>), the same situation is with the Ministry of Economic Development and Trade as there is no fixed period of time for consideration of documents. According to our information, the duration of the consideration can be up to 30 days. We seek clarification on this point from the Russian Federation, i.e. does the Russian legislation set a specific period of time for the consideration of documents ? If yes, please indicate the relevant article of the legislation as Article 3.5 f of the Agreement on licences mentions specific periods for processing applications in the

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		case of non-automatic import licensing. In addition, the Russian delegation indicated on Monday that the time needed to issue an import or export license was 21 days starting from the day of application. As the table we got from the Russian delegation indicates that the time needed is 25 days, we would like to know how we can be sure that it is 21 days and not any other period of time. At **page 4** (Registration of the license in customs bodies), we have been informed that the customs require 28 days for registration of an import license, this is more than the double mentioned in the table. We have the same concern has regards the ad valorem fee as mentioned previously. Finally, the storage fee is not mentioned. This fee is 0.1 US$/kg/24h –0.42 US$/kg/24h. We would like to know how the amount of the fee to be paid is determined, In which cases is 0.1US$ and in which cases is it more, are there only two different rates or more ? Finally, if, starting from the moment of application for an activity license, we add up all the time period required to get all the documents needed to import pharmaceuticals in Russia, we end up with a total of a little more than 9 months (30 days for an activity license, up to 6 months to get a certificate of registration of a medicine, up to 19 days for a certificate of conformity, up to 15 days for a document of approval, 25 days for an import license, 10 days for the registration of the license by the customs).
51.	**130-141**	**Russian Federation:** **- Licensing of import of Ethyl Alcohol and Alcoholic Beverages** **There are no quantitative restrictions on import of ethyl alcohol and Alcoholic Beverages.** **In accordance with Federal Law No. 171-FZ of 22 November 1995 "On State Regulation of Production and Turnover of Ethyl Alcohol, Alcoholic and Alcohol-Containing Products" Ministry of Taxes of the Russian Federation with the purpose of the control for the turnover of this production on the territory of the Russian Federation issues licenses to organizations, registered on the territory of the Russian Federation as legal entity for the following activities: import, storage and deliveries of Alcoholic Products. There are two kinds of licenses: one-time (specific) and general.** **One-time license shall be issued for a term of up to 6 months and to certain amount of Alcoholic Products.** **General license shall be issued to organization only after check-up of its activities for previously issued one-time licenses. The validity of general license is up to 3 years.** **In accordance with Federal Law No. 157 FZ of 13 October 1995 "On State Regulation of Foreign Trade Activity", Government Resolutions of the Russian Federation No. 77 of 28 January 1997 and No. 114 of February 02 1998 the Ministry for Economic Development and Trade issues licenses for import of only certain items strong alcoholic beverages (of an alcoholic strength of >28% Vol.).** **Reference: only vodka and equal alcoholic beverages are subject to licensing according to HS code of Russia.** **The Ministry of economic development and trade of Russian Federation issues the licenses after receiving the following documents:** **⇒an application for the license,** **⇒ copy of the contract,** **⇒a copy of a certificate confirming that the applicant is registered by a regional tax authority as a tax-payer,** **Application of the licensing of import of aforesaid products conducts for National Security and corresponds to Article XX (c) GATT.** **With the purpose of leading of above-mentioned legislative acts to conformity with standards and rules of WTO has been prepared and is submitted for consideration to the State Duma of the Russian Federation the draft of Federal Law "On introducing of changes and supplements to Federal Law No. 171-FZ" (proposed to exclude from kinds of activity "import").**

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52.	**142-150**	**- Customs Valuation**
53.	142-150	This Section should be updated to describe how the provisions of the draft Customs Code and draft Chapter 25.1 of Part II of the Tax Code will bring Russia into conformity with WTO provisions once they are enacted. - Please include information on what will be required concerning changes to regulations in place and issuing further regulations to fully implement the new customs valuation regime. - The draft report should also include reference to Member requests for commitments on the use of the two WCO decisions on valuation. - Please elaborate in the revised draft Working Party Report text on the need and operation of the "special technique of customs control" to prevent commercial valuation fraud. What precisely is the "special technique," how is it applied, and does Russia intend to keep using it in future? - Please provide a list of products by HS item number currently subject to the "special technique," e.g. flat glass. - Please include information on how Russia's regime addresses the right to import merchandise under bond. - Please include information in the text on the scope for use of transaction value in related party transactions, the need to include the Interpretative Notes in Russia's customs valuation legislation, and respond to the specific concerns noted regarding the determination customs value under transaction value, value of identical merchandise, deductive value, and the fallback method.
54.	**142-150**	**Russian Federation:** **In order to simplify the Russian tariff system and ensure full conformity of the Customs Code with the relevant WTO provisions as well as to ensure strict execution of the customs legislation on the overall territory of Russia the following normative legal acts are now thoroughly worked upon.** **Draft Customs Code** **The draft Customs Code has been elaborated to reflect generally accepted international rules, including the Kyoto Convention on Simplification and Harmonization of the Customs Procedures, the WTO Agreement on Rules of Origin and the WTO Agreement on TRIPS.** **To make the activity of customs authorities more effective the better part of the provisions of the new Customs Code has been elaborated to ensure direct implementation of the draft code. To ensure the transparency the Customs Code envisages official publication by the competent authorities of legal acts of the customs regulation.** **The draft Customs Code contains a list of customs payments, a list of persons to make these payments, as well as the legal grounds for avoidance of such payments. The draft code also stipulates the grounds for deferment of payments and making payments in installments. The draft also provides a list of circumstances when deferment of payments and making payments in installments shall not be excluded.** **The draft code establishes the right of the participant of foreign trade activity when securing a customs payment to use any sort of security envisaged by the code, provided that the security used is recognized by the customs authority as reliable.** **The draft code provides a detailed description of the procedure for the recovery of the customs payments that have not been paid.** **The draft code envisages the terms for return of those customs payments which have been overpaid or overrecovered. The customs authority shall inform the payer on the overpaid or overrecovered customs payments within one month since the detection of this fact.** **The draft code provides a reduced list of operations on which customs fees are imposed. The customs fees shall not exceed the approximate cost of the expenses of the customs authorities for performing certain operations.** **A simplified procedure for the customs registration is envisaged for those importers and exporters who perform their actions in full conformity with the established procedure. The registration is reduced from 10 to 3 days, which also becomes possible due to the use of modern information technologies.**

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		To accelerate the customs procedure and raise the efficiency of the customs control Chapter "Information Systems and Information Technologies" has been included in the draft code. **The draft code contains the improved provisions of the right for appeal so as to ensure conformity of the practice of the customs administration and its officials with the legal requirements related to making decisions, actioning and non-actioning. The right of appeal may be realized by lodging an appeal to the higher customs authority and/or by initiating a legal procedure.** **The project envisages a simplified procedure for appealing against actions by the customs authorities. The procedure allows an oral claim to a senior official of the customs authority which will enable to effectively solve the issues in case of a conflict.** **The draft Customs Code provides detailed provisions which comply with the WTO rules also including those related to the protection of intellectual property rights and the rules of origin.**
55.	**151-158**	**- Rules of Origin**
56.	151-158	Please provide specific and updated information on the new Rules of Origin provisions with respect to WTO obligations, e.g., as provided for in the new Customs Code, and the need or existence of any relevant implementing regulations, with particular attention to the requirements of Article 2(h) and Annex II, paragraph 3(d) of the Agreement on Rules of Origin. . Do Russia's preferential rules of origin for the CIS, for Yugoslavia, and for the EAEC, reflect the interim rules of the WTO Agreement in Annex II of the Agreement?
57.	151-158	We submitted a number of specific questions on Rules of Origin in May 2002, to which no response has yet been made. We invite Russia to respond now.
58.	151-158	On the basis of the answer from the Russian delegation during the December 2002 meeting paragraph 153 should be modified, as the requirement of the written statement by the consignor will be repealed by the draft tax code. We seek a confirmation and a commitment from the Russian delegation on this issue.
59.	151-158	Please provide specific and updated information on the new Rules of Origin provisions with respect to WTO obligations, e.g., as provided for in the new Customs Code, and the need or existence of any relevant implementing regulations, with particular attention to the requirements of Article 2(h) and Annex II, paragraph 3(d) of the Agreement on Rules of Origin. . Do Russia's preferential rules of origin for the FTAs with CIS, Yugoslavia, or other such agreements, reflect the interim rules of the WTO Agreement in Annex II of the Agreement? Please provide specific legal citations.
60.	*151-158*	*Normally the country of origin will most often be stated in the trade documents/ invoices. A certificate of origin is normally not necessary, unless requesting preferential treatment. Para 152 , as in para 163 of the former document, uses the word "might" e.g. "might request a certificate of origin" or "might be no mandatory requirement to submit a certificate of origin"* *Our exporters are confronted with uncertainties as Russian practice can be unclear and opens for high tariffs (double the MFN-rate). This again means that for all practical purposes an exporter needs a certificate of origin even though it shouldn't be necessary when not requesting preferential treatment and when the origin is reflected in the documentation for customs clearance. The non-clarity and unnecessary bureaucratic burdens should be solved by the time of WTO-accession. First there is a need for more information on practice.*
61.	152-156	1. Our delegation wishes to reiterate the importance of problems described in paragraph 153 regarding the customs regulation and simplification of border control measures and necessity of bringing all these inconsistencies under the WTO legal umbrella. We regret that the Russian Federation instead of understanding the problem raised by the member tries to circumvent the question, which has the utmost importance and serious economic consequences for the member's national economy. Accordingly, the problems listed in paragraph 153 of the

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		draft report still remain unresolved and open. Therefore, we seek the commitment from the Russian Federation to prevent the illegal flow of smuggled goods from its territory. We also urge Russian side to remove all customs formalities, which represent hidden barriers to trade and major trade distorting measures, prior to its accession to the WTO. 2. Our delegation would like to reiterate that the provisions of decrees of the State Customs Committee of the Russian Federation No 961-r dated 4 October 2001 and No 1002 dated 19 October 2001 run counter the provisions of the Constitution of the Russian Federation and namely Article 15 which states that: ”if an international treaty to which the Russian Federation is party provides for other rules than those set forth by Russian Federation domestic law, the rules of the international treaty should apply”. It should be stated that the two above-mentioned decrees of the State Customs Committee violate the provisions of the bilateral agreement between this member and the Russian Federation on Customs Check Points. Accordingly, our delegation urges the Russian Federation to immediately eliminate these discrepancies and to ensure the consistency of these legislative acts with the provisions of the international treaty.
62.	*152*	*We refer to the reference in paragraph 152 to country quotas and “other methods for regulation of foreign economic activities”.* *- We seek the inclusion in the draft Report of explanations of the circumstances under which these two measures are applied.*
63.	**151-158**	**<u>Russian Federation:</u>** **The new draft Customs Code of the Russian Federation as well as The Agreement on Rules of Origin define the country of origin of a particular product as either the country where the product was produced wholly or was subject to sufficient re-make in accordance with the criteria established by the draft code or the procedure determined by the draft code the two of them complying with the Agreement on the Rules of Origin.** **The draft code supplies an exhaustive list of goods, which are considered to be produced wholly in the country.** **The Draft establishes the criteria of sufficient re-make and lists the operations, which do not fall under these criteria. The list is not exhaustive, additions to it may be made by the Government of the Russian Federation.** **In case the goods are supplied in the dismantled or not assembled state; by several shipments, when due to the industrial or transportation problems it is impossible to deliver the whole lot at one time; when the lot of goods was divided to parts by mistake, the draft establishes a number of peculiarities in determining of the country of origin of goods (the indicated goods may be considered as one whole unity upon the declarer’s will).** **<u>Preferences</u>** **The procedure for the application of criteria of substantial re-make for particular goods or a particular country to whom the Russian Federation grants tariff preferences shall be established by the Government of the Russian Federation.** **The document confirming the country of origin of goods shall be the Certificate on the origin of goods or the Declaration on the origin of goods.** **In case the information about the origin of goods which was cited in the certificate or the declaration was based on the criteria different from those which are currently in force in the Russian Federation the country of origin of goods shall then be determined on the basis of the criteria applied in the Russian Federation.** **The draft code establishes the cases when it is mandatory to provide the certificate of the origin of goods.** **In other cases customs authorities shall have the right to require to provide the certificate on origin only in case of detection that the information on the country of origin of goods which determines the application of the customs duty rates, taxes and (or) non-tariff measures of regulation is false. The requirement shall have motives behind it.**

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		When the origin of goods has not been duly confirmed in accordance with the draft code and when such goods are not prohibited from importation to the Russian Federation, such goods shall be released upon payment of customs duties to the rates applied to the goods which originate from the countries the trade political relations with which do not envisage the MFN treatment. **Provided that the certificate on the origin of goods does not meet the established form or that the customs authorities have detected that the certificate is not properly set or contains false information on condition that the country of origin of goods is the one which enjoys a MNF treatment and the declarer has submitted other documents to confirm the country of origin, the goods shall not be granted tariff preferences and shall be subject to payment of customs duties to the rates applied to the goods the trade political relations with which envisage the MFN treatment.** **A MNF treatment or a preferential regime is granted to the goods said above in the course of one year since the adoption of the customs declaration by the customs authority, provided that their country of origin is confirmed.** **The <u>Draft of Chapter 25.1 of the Draft Tax Code of the Russian Federation</u> "Customs Duty and Customs Fees "provides the procedure for levying the customs duty and customs valuation which are in conformity with WTO requirements, and establishes a predictable and transparent regime in this sphere.** **This draft was elaborated with regard to Article VII of the GATT 1994 and the Agreement on the Application of Article VII of the GATT 1994. The draft envisages that the price of a deal shall form the basis for the customs valuation of the imported goods. The price of the deal is understood as the price for the goods sold for export to the importing country which has been paid or is to be paid. Application of other methods complies with the Agreement on the Customs Evaluation. The calculation methodology of the customs evaluation shall be reflected in a separate document. The draft also pays due regard to the better part of the explanatory notes, which are contained in Annex 1 of the mentioned above Agreement.** **The draft includes the provisions:** **- which bring the system of the customs evaluation of goods in conformity with the relevant WTO provisions;** **- which establish the mechanism of tariff quoting of agricultural products and foodstuffs in conformity with the relevant WTO norms and rules;** **- which envisage protection of declarers' rights when determining the amount of the customs duty and customs fees which shall be paid on transportation of the goods across the customs border of the Russian Federation.** **Adoption of this draft along with the adoption of the draft Customs Code of the Russian Federation will eliminate the existing discrepancies between the tax legislation and the customs legislation.** **The draft also bridges the gap in the legal regulation of tariff quoting. At present there is no legal definition of the tariff quota which essentially impedes the application of this mechanism of customs tariff regulation.** **The draft of Chapter 25.1 of the Tax Code of the Russian Federation enables to determine the terms of application of tariff quoting which will allow the effective use of customs tariff regulation by the Government of the Russian Federation.**
64.	**159-163 and 200-201**	**- Other Customs Formalities**
65.	159-163	Para 163: Russia should respond to WP Member requests for a commitment addressing the issue of reduced access to the Russian market through selectively closed and opened borders.
66.	161-163	We continue to seek a specific commitment by the Russian side regarding non-application of discriminatory country-specific customs procedures in order to avoid practices referred in paragraph 161 of the draft Working Party Report and assure full compliance with Articles I (1) and VIII of the GATT 1994.
67.	200-201	Please identify and describe any other export measures like the one described in these paragraphs.
68.	163	Russia should respond to WP Member requests for a commitment addressing the issue of reduced access to the Russian market through selectively

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		closed and opened border crossings.
69.	200-201	Please identify and describe any other export measures like the one described in these paragraphs.
70.	159 and 200-201	We are still concerned about the operation of customs check-points, which are from time to time promptly closed for certain products under different reasons. This uncertainty over operation of customs checkpoints is considerably limiting market access for some products. We would like to see a commitment from Russian side to bring its practices in conformity with WTO rules.
71.	**166-175**	**- Trade Remedy Measures**
72.	166-175	Concerns by Members about import surcharge (§ 167), about duration of ADP (§171), about SG. §173: new legislation under preparation. => section should be updated and modified accordingly once new legislation adopted. Comment: We thank the Russian Federation for the answer provided and especially for the information on the new draft law dealing with trade remedies and the tables listing the measures in place and the investigations underway. It would be very useful to indicate either the duration of the measures or the date of expiration of the measures.
73.	173	As indicated in the Draft Report, a new draft Federal Law "on Safeguard, Anti-Dumping and Countervailing Measures" had been prepared by the Government with the objective of introducing full conformity with the relevant WTO provisions in these areas. This new law would be submitted to the State Duma shortly. We consider that the working Party should be given an opportunity to review the content and coverage of these new legislative acts as well as any implementing regulations so as to confirm the full conformity of the new Law and regulations and their modalities of application with relevant WTO Agreements.
74.	175	As indicated in the Draft Report, the representative of the Russian Federation confirmed that the Russian Federation would not apply such measures, including Articles VI and XIX of GATT 1994. We consider that Article XVI should be referred as well.
75.	**166-175**	**Russian Federation:** **The draft Federal Law "On Safeguard, Antidumping and Countervailing Measures" was elaborated by the Government of the Russian Federation in order to bring this part of the Russian legislation in full conformity with the relevant WTO provisions.** **The draft law establishes a more precise procedure for the application of safeguard, antidumping and countervailing measures, and is aimed at improving the mechanism this application of such measures. The draft law invalidates similar rules set in the Federal Law No. 63-FZ of 14 April 1998 "On Measures to Protect the Economic Interests of the Russian Federation in Foreign Trade in Goods". The offered draft law will allow conformity with WTO Agreements: Agreement on Subsidies and Countervailing Measures, Agreement on Safeguards, Agreement on Implementation of Article VI of GATT 1994.** **The provisions of the draft law specify the definitions of basic terms depending on the measure applied (safeguard, antidumping and countervailing), in particular: serious and material injury of branch of the Russian economy, subsidies of the foreign state, countervailing measures, similar goods in a context antidumping and countervailing.** **The main difference between draft law and the Federal law in force consist in specification of the investigation procedure with the purpose of determine whether increased imports and serious injury, caused by it, of branch of the Russian economy or threat of causing of such injury, and also dumping of import or import subsidies of the goods and presence of the material injury, caused by it, of branch of the Russian economy or threat of causing of such injury. Thus a number of provisions of the draft law is directed on perfection of the mechanism of introduction, application, reconsideration and cancellation safeguard, antidumping and countervailing measures. The provisions determining the procedure for the application of various form of safeguard, antidumping and countervailing measures (including temporary duties, obligation) are framed in a more detailed and intelligible manner.** **The draft law specifies the goals of investigations, and also empowers the federal executive body responsible for their conduct to not only propose the application of safeguard, antidumping or countervailing measures, but also to propose their introduction, review and**

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		cancellation. The propositions are made to the Government of the Russian Federation as a result of the investigation. **At the end of January 2002, the Government of the Russian Federation approved and introduced to the State Duma this draft law. The draft law was passed by State Duma in the first reading on 14 of March 2003.**
76.	**176-181**	**Export Regulations** **- Export Duties**
77.	176-181	Comment: During December meeting, problem of products subject to export duties (JPN, UE; AUS). Members requested list of products subject to export duties in report + elimination of those duties. Russia indicated that high value products have been removed from this list and that the list have been shortened 2X from 1.1.2003 and will provide an updated list. We request the Russian federation to provide an updated list of products subject to export duties by HS number together with the applied rates and request that they be eliminated.
78.	**164-165**	**Pre-shipment Inspection**
79.	164-165	As indicated in the above-mentioned Draft report, Russian Federation stated that the pre-shipment inspection system, if still in force at the time of accession, would be in consistence with the Agreement on Pre-shipment Inspection and the Agreement on the Implementation of Article of the GATT 1994. We would appreciate knowing what is the legal basis for pre-shipment inspection in Russian Federation? Will Russian Federation provide a copy of the newly restructured Laws/regulations in official website?
80.	**188-194**	**- Export Licensing Procedures**
81.	188-194	In a previous document (RUS/25/Add.2 answer 58) Russia indicated that Pharmaceutical products should be omitted completely. However, the revised draft report seems to say that pharmaceutical products are still subject to non-automatic export licences (§189). If we look at table 17a, only pharmaceutical raw materials of animal and vegetable origin are subject to non-automatic export licences. What is the rationale to omit the pharmaceutical products from the non-automatic export licences and not the pharmaceutical raw materials ? What are the amendments foreseen in §191 for Government Resolution no 1299 of 31 October 1996 on the procedure for holding tenders and auctions for the sale of quotas when introducing quantitative restrictions and licensing the export and import of goods ?
82.	**188-194**	**Russian Federation:** **Licensing of export of previous metals and precious stones:** **According to the President Decree of the Russian Federation of June 21, 2001 № 742 on the importation into and exportation from the Russian Federation of precious metals, precious stones and raw-material goods containing precious metals the export of below listed goods only is carried out on the basis of the licenses of Ministry of economic development and trade of Russian Federation and without quantitative restrictions:** **- high gold and silver;** **- the raw and processed precious stones (sapphires, rubies, emeralds).** **The export of jewelry products and products for production and technological purposes from precious metals and stones is not licensed.** **Licensing of import of medicines and pharmaceuticals.** **1. In accordance with Government Resolution No. 854 of 06 November 1992 the export of medicine raw materials is provided on the basis of licenses, issued by the Ministry of Economic Development and Trade of the Russian Federation in agreement with the Ministry of Health of**

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		the Russian Federation and the Ministry of Natural Resources of the Russian Federation. Application of non-tariff regulation remedies of the present category of products has been dictated by the defense of national interests, including both guarding animal and vegetable environment and necessity of preventing of exhausting of non-recovered natural resources. **At present the Ministry of Economical Development and Trade has prepared a draft Government Resolution on excluding of aforesaid category of products from the list of products, subject to licensing within providing of foreign trade operations.** **2. At present the Ministry of Economic Development and Trade of Russian Federation jointly with interested in Federal bodies of executive power has prepared the draft of federal law "On introducing of changes and supplements to Federal Law No. 86-FZ "'On medicines", directed on liberalization of importing order of medicines.** **At the same time the draft of federal law "On Principles of State Regulation of Foreign Trade Activity", corresponded with standards and rules of WTO has been directed to the State Duma of Federal Meeting of the Russian Federation. Realization of above-mentioned draft laws will afford to take into consideration requirements of WTO, concerned to import of medicines. It will create conditions of providing issuing of licenses by the Ministry of Economical Development and Trade automatically.** **According to Government Regulation No. 1299 of 31 October 1996 the decision on issuing of license shall be taken within 25 days of the day of receipt of necessary documents from the subject of economic activity.** **3. For the question of necessary term for providing import of medicines into Russian Federation for organization it is ought to notice that summing up of maximum terms on each stage is not quite critical. Adduced term (9 months) to some extent is based only in case of the beginning of pharmaceutical activity of organization, which intends to import into Russian Federation unknown and unregistered in Russian Federation medicine. However this cases are rare.** **In limits of the term, established by legislative acts (30 days) an organization will receive an activity license in the Ministry for Health of Russian Federation on kind of activity corresponding (pharmaceutical activity, production of medicines). The validity of activity licenses is 5 years.** **For all that organization has right to begin registration in Russian Federation of unregistered medicine before receipt an activity license. Than organization will sign a contract and in established terms (approval of the Ministry for Health of Russia - 15 days). Ministry of Health of the Russian Federation is the federal body, authorized by Government of the Russian Federation to provide control of quality, efficiency and safety of medicines. According to Government Resolution No. 1539 of 25 December 1998 the Ministry of Health of the Russian Federation provides conformity of license issue on import of medicines in Russia. The conformity is not a preliminary permission on import, but is intended for carrying out for documentary professional findings of importing medicines from the point of view of requirements presented and conformity (producer, form of output, dozing, packing and so on) to medicines registered on the territory of the Russian Federation. Issuing of license of the Ministry for Economic Development and Trade of Russia - 25 days, registration of an import license in the Customs - 10 days) receives permitting documents and import of medicines by individual contract.** **4. Customs warehouses are used with the purpose of the security of products, placed under regime of customs warehouse. The fee for keeping of products, placed on warehouse is established in limits from 0,10 to 0,42 US dollars. It differs in dependence of the level of given services, volume of product or engaged room. For instance, keeping of product in premises with the temperature of environment or in refrigerator requires different costs. It is known that maximum fee for safety of pharmaceuticals in refrigerator competed 0,31 US dollar for 24 hours of keeping.**

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83.	**195-199**	**- Export Financing, Subsidy and Promotion Policies**
84.	199	As indicated in the Draft Report, the Representative of the Russian Federation confirmed that, from the date of accession, it would not maintain subsidies within the meaning of Article 3 of the Agreement on Subsidies and Countervailing Measures. We consider that definition of subsidies should be referred to Article XVI of the GATT 1994 as well. Furthermore, the Russian Federation should commit that upon its accession, it shall abide by this Article.
85.	**195-199**	**<u>Russian Federation:</u>** **In accordance with Decision No. 538 of 15 May 1999 of the Government of the Russian Federation "On Provisions of Budgetary Loans to Finance the Implementation of High-Return Contracts for Production and Supply of Products, Including Export Supplies" loan equal to 50.0 million rubles was granted from federal budget to OAO "Rostselmash" in 1999. In 2000-2002 this Decision was not in force and no funds were granted from the federal budget.** **Years 1996 1997 1998 1999 2000 2001 2002** **Million rubles 10,382.7 6,469.0 5,257.9 10,000.0 7,967.4 8,080.1 6998,4** **In 2001 – 2002 federal budget provided federal credit arrangements on a competitive basis for realization of investment projects in coal industry. Thereupon the Ministry of Finance of the Russian Federation concluded treaties, at the amount of 1,234 billion rubles, on realization of investment projects in coal industry on a competitive basis. In 2001 – 2002 out of this sum it is actually used 426,8 million rubles: in 2001 – 80 million rubles, and in 2002 – 346,8 million rubles.**
86.	**202-208**	**Industrial policy, including subsidy policies**
87.	**202-208**	**<u>Russian Federation:</u>** **"Main Directions of Forestry Industry Development", which determine main goals and objects of development of this branch, were adopted by the Decision of the Government of the Russian Federation № 1540-D on 1st November 2002. This concept cannot be applied as directive document, but establishes main guidelines for development of forestry industry. At present time the Draft Program of Forestry Industry Development is not approved.** **According to "Main Directions of Forestry Industry Development" main goals of Forestry Industry Development are:** **- complete satisfaction of domestic market needs in high-quality and competitive timber and paper products of Russian production;** **- step-by-step integration of Russia to world timber and paper market;** **- efficient use of forest potential of country;** **For achievement of mentioned goals it is necessary to provide the solution of following tasks:** **- attraction of investments for modernization of operating industry;** **- increase of labour productivity;** **- strengthening of positions of timber and paper products' domestic exporters on world markets and new markets development;** **- realization of efficient customs and tariff policy, directed to the optimization of export structure, and also to the protection of domestic producers on Russian market;** **- increase of scientific and technological potential of the branch, innovation activity of timber and paper industry.** **Basic measures, conducive to the branch development, will be directed to:** **- perfection of the legislation in the field of timber and paper industry for creation of conditions for increase of investment activity;**

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		- **reorganization of forest production complex providing improvement of its effective function;** - **-realization of effective international trade policy;** - **activization of innovative activity;** - **improvement of standardization and certification of paper production;** - **cooperation in development of financial leasing of machinery applied in forest production complex;** - **harmonization of a number of technical standards applied in forest production according to international standards;** - **cooperation in realization of investment projects conducted on the territory of the Russian Federation including those with international investors participation.** - **-implementation of the most important scientific research projects related to establishment of new highly effective productions of paper production into working or being elaborated federal special purpose programs.**
88.	**209-225**	**Technical Regulations and Standards, Including Measures Taken at the Border with Respect to Imports** **- Technical Barriers to Trade**
89.	209-225	Some of the Members indicated their concerns about the different marking systems in Russia, such as market access mark, certification mark and voluntary certification marks that might constitute technical barriers to trade. The response provided by the Russian Federation described in WT/ACC/SPEC/RUS/29 did not seem to answer the concerns raised by Members in this respect.
90.	209-225	On page 33 of WT/ACC/SPEC/RUS/29, the Russian Federation responded that "import of products into the territory of the Russian Federation were restricted if the products in question did not meet the legislative requirements; were not accompanied by a certificate, did not bear the required marking in the instances envisaged by federal laws and other legal acts of the Russian Federation; or were banned for use as harmful consumer goods". We would like to know detailed information about such laws and legal acts, certification and marking procedures for electrical and electronic products at federal and local government levels. Besides, we would like to know whether the certification results are mutually accepted among local governments in Russia.
91.	209-225	Under section IV of the document on "basic administrative measures necessary for carrying out activity in the field of medicines" it is not clear if the certificate of conformity of the medicines delivered by the Ministry of Health or Gosstandard of Russia or both and what are their respective competence. It would be useful to get more information on their respective competence. In addition, it is mentioned that the cost for getting a certificate of conformity is determined on agreement between an applicant and a body of certification. Considering Article I and VIII GATT and Article 5.2.5 of the TBT Agreement, we have serious doubts on the consistency with WTO rules of way the fee requested for a certificate of conformity is determined. According to **Paragraph 209**, Gosstandard of Russia is operating in the regulatory as well as in the commercial field. Such combination of responsibilities is problematic with regard to impartiality and independence of Gosstandard. Is it intended to separate certain tasks from Gosstandard? Who will in future be responsible for the operation of a reliable accreditation system in Russia? **Paragraph 212** mentions that Government Resolution No. 287 of 29 April 2002 substantially reduced the list of goods subject to mandatory certification. We request that an updated list be annexed to the draft report. Are further revisions of this list planned in the near future? **Paragraph 214** in principle refers to the list of products whose conformity may be confirmed by conformity declaration. We do not understand why the Russian Federation also mentions the mandatory certification procedure in this context. Hence, what would be the difference between this list and the list mentioned in paragraph 212 above? It would be very useful if the Russian Federation could list and explain in a separate paper what conformity assessment procedures must be completed for what types of products, and how the required procedures will look like. Such paper should refer to all possible conformity assessment procedures laid down in Russian law, from mandatory certification to supplier's declaration of conformity.

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		Also mentioned in paragraph **214** is the recognition of certificates issued in the supplying (foreign) country. Such recognition will take place in case the supplying country has concluded an interstate agreement or if is participating in an international certification system to which the Russian Federation has acceded to. We would like to know in what international certification systems the Russian Federation already participates. Is a participation in other certification systems planned? **Paragraph 214** refers also to the appeal commission of Gosstandart. As Gosstandard itself supplies many of the services that the appeal commission has to decide upon, we would like to know how independence and impartiality between Gosstandard and the appeal commission will be guaranteed. **Paragraph 215** mentions the Draft Federal law "on technical regulation". On November 18 2002, we sent written questions referring to this Draft law to the Russian mission in Geneva. Up to now, we have not receive any answer to this letter. We would like to ask the Russian delegation until when the Russian answers and comments to the Swiss paper can be expected. **Paragraph 217** states that the overall level of harmonization of domestic with international standards is currently about 35 per cent. Is there a specific reason why only 35% of domestic standards are harmonized with international standards? We would like to ask if the harmonization of state standards with international standards is even below the 35 per cent level for some product sectors. For which specific product sector(s) is this the case? In the comments provided by Russia in SPEC/RUS/29 it is indicated that over 50% of state standards were already harmonized with international standards and that the overall level of harmonization of domestic standards with international standards was currently 35%. What is the difference between domestic and state standards ? How many categories of standards do you have a part from state standards ?
92.	re: Federal Law No.27	1. <u>General remark</u> The English translation of the federal law “Framework Provisions on Technical Regulation in the Russian Federation” contains several terms and definitions that seem not to be in line with the agreed terminology under the WTO-TBT Agreement (hereinafter the TBT Agreement). The Russian Federation is asked to make broader use of globally agreed TBT terminology and of internationally harmonized definitions (e.g. ISO Guide 2) 2. <u>Preparation, adoption and application of technical regulations of (central/local) governmental bodies</u> - Article 3 of the law on technical regulating lays down the principles of technical regulating in the Russian Federation. One of these principles is the “compatibility of technical regulating to the performance of national economy, condition of technical infrastructure and achieved level of technological development”. Nothing is said in this article about the compatibility of national technical requirements with internationally harmonised standards. We would like to know why the principle of compatibility of national technical regulations with international standards as laid down in Article 2.4 of the WTO TBT Agreement is not included in Article 3 of the Russian law on technical regulating. - In the same context, Article 9 paragraph 10 stipulates that in the case of non-compliance of technical regulation with the interests of the national economy, the Government of the Russian Federation may cancel this technical regulation or may amend it to make it compatible with these interests of the national economy. How will the Government of the Russian Federation decide in the case of such conflict between an international harmonised standard and the interests of the national economy? According to agreed principles, the protection of interests of national economy is in general not a legitimate objective to deviate from international standards (see Articles 2.4 and 2.2 of the WTO TBT Agreement). - Article 11 of the law “Framework Provisions on Technical Regulation in the Russian Federation” deals with the adoption and application of technical regulations in case of urgency. Article 2.10 of the TBT Agreement however requires adequate consultation of member states and

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		interested parties also in those cases where technical regulations must be adopted rapidly. Does the Russian law also consider adequate consultation procedures for stakeholders in case of urgency (possibly after adoption of the regulation)? 3. <u>Procedures for Assessment of Conformity</u> - Article 20 paragraph 1 differentiates on the one hand between mandatory and voluntary conformity confirmation. We would be very much interested in some further information about the ongoing review of the list of products requiring mandatory certification. We would like to express again that past lists have been too extensive. Mandatory certification shall only be required for products with a considerable hazard potential. - Furthermore, Article 20 paragraph 3 defines the two possibilities for mandatory conformity confirmation: Supplier's declaration of conformity /"declaring of conformity" (SDoC) and mandatory certification. What criteria are relevant in order to determine whether a product falls under the SDoC- or the mandatory certification scheme? - With regard to SDoCs (Article 24), we are concerned that the respective proposals in the Russian Draft law would create unnecessary barriers to trade. First, we would like to know in what cases the declaration of conformity based on own proofs must be completed by proofs or certificates of a third party (Article 24 paragraph 3). According to our understanding of SDoCs, the participation of conformity assessment bodies shall only be necessary in exceptional cases. Therefore, we propose that the involvement of accredited test labs or certification bodies should only be required for products with high hazard potential. Second, according to Article 24 paragraph 6, the properly issued SDoC must be registered at the federal executive body in the field of technical regulation. We think that such a requirement is not necessary. For the purpose of market surveillance, the SDoC must be available where the product is delivered. Normally this will be the manufacturer or the distributor but certainly not the authorities as required in the Russian law. We are of the view that the SDoC-procedure proposed in the Russian Draft law is too complicated and not in line with the internationally agreed purpose and the intention of SDoC, i.e. to keep the main responsibility at the manufacturer himself. Therefore, the Russian Federation should modify the proposed SDoC procedure with a view to delegate more responsibilities in the field of conformity assessment to the manufacturer. - Article 22 deals with the issue of voluntary conformity markings. How will it be guaranteed by the Russian government that voluntary conformity marks are not created as a means to discriminate foreign products against domestic products? - Article 30 deals with the recognition of results of conformity assessment. Article 6.1 of the WTO TBT Agreement obliges member states under clearly defined circumstances to accept results of conformity assessment procedures performed in other member states even when those procedures differ from their own. According to Article 30 of the Russian law, recognition of results of conformity assessment in the Russian Federation may only be possible according to international treaties of the Russian Federation in this field. We would like to know if recognition of results of conformity assessment is also possible, lacking a specific bilateral agreement with the Russian Federation. In this context we would like to ask the following questions: - Can a foreign test lab act as a subcontractor of a Russian certification body? Under what preconditions is this accepted? - Under what circumstances can foreign certification bodies issue certificates for the Russian market? Would an accreditation in a foreign country be sufficient if this country is engaged in international cooperative work in the field of accreditation (e.g. ILAC, IAF, EA)? - Previous versions of the law on technical regulating contained provisions with regard to independence and impartiality between accreditation and certification bodies. This provision has been deleted in the latest version of the law. We would like to know the reasons for this modification. In this context, we would like to know whether or not such impartiality and independence problems have been resolved at Gosstandard.

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93.	209-225	a) According to Russia's explanation given at the last WP meeting, following the entry into force of the federal law "On Technical Regulation" (hereafter "umbrella law"), each technical regulation will be reviewed over a 7-year transition period. With regard to this review, please indicate the "Responsible Authority" and the "Time-Frame" of each Technical Regulation (including the "Interstate Sanitary Regulations and Norms"). Furthermore, we would appreciate it if Russia could update the document "Interdepartmental Program of Measures to Ensure Full Compliance with the Requirements of the WTO Agreement on Technical Barriers to Trade and the WTO Agreement on the Application of Sanitary and Phytosanitary Measures in 2002-2005 Job No. 4930)", which was submitted by Russia to the WTO Secretariat in June 2002. b) With regard to Article 6 "The Purposes of Technical Regulations" of the umbrella law, the "protection of state or municipal property" is included as one of the purposes. Please explain how this purpose conforms with the purposes specified in Article 2.2 of the TBT Agreement, which are legitimate objectives. c) Russia's current "Interstate Sanitary Regulations and Norms" includes 12 categories of conformity assessment for technical regulation such as that for noise, vibration (general/local), infrasonic, etc. However, we have never known cases where the existing WTO Members adopt such categories for the conformity assessment of technical regulations for electronics products. We are thus concerned how these categories can justify being adopted as a technical regulation for electronics products. Please explain in detail the contents of the "Interstate Sanitary Regulations and Norms", together with the justification for imposing this technical regulation, giving such evidence as scientific and technical information and so on. d) Russia also explained that the EU technical regulations and standards system will be applied widely in the Russian Federation. Are we to understand that the products subject to Russia's "Declaration of Conformity (DOC) system" will cover such products under the EU technical regulations and standards system, as "Television Receivers", "Audio Products", and "Personal Computers and their peripherals"? e) After the umbrella law comes into effect, will the procedures for the acquisition of a certification on technical regulation be modified or not? If so, what kind of modification to procedures is envisaged?
94.	209-225	Russia's response to this section is lengthy, and includes large sections from the existing draft of the WP report. We ask that Russia re-draft this section in a format of specific answers to questions and concerns raised by Members, so as to allow an assessment to be made of what issues remain in dispute.
95.	**209-225**	**<u>Russian Federation:</u>** **Certificate of conformity of the medicines is delivered by certification body, accredited by Gosstandart of Russia in GOST R certification system.** **Gosstandart of Russia had agreed with the Ministry of Finance of the Russian Federation and adopted "Rules of Certification. Fees for Certification of Products and Services" which were subsequently registered with the Ministry of Justice of the Russian Federation on 29 December 1999 (reg. No. 2031). The document provides a uniform fee-payment structure for national and foreign applicants, and is based on the costs effectively incurred by certification authorities and testing laboratories in carrying out the conformity assessment procedures.**

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		But of course the cost of certification work depends on the territory of certification body (in Russia or abroad) and can differ. **The central Committee of Gosstandart of Russia does not provide commercial work and was not paid for the certification and accreditation. But in future we are planning to create unify national accreditation system based on non governmental organization.** **The Gosstandart is planning to revise the list of products subject to mandatory certification and declaration of conformity by the 1 july of 2003.** **Under Article 4 of Law 5151-1 of the Russian Federation "On Certification of Products and Services" dated 10 June 1993 as amended by Federal Law 154-FZ of 31 July 1998, Russia recognises the results of conformity assessment procedures by all international systems Russia has acceded to (Geneva 1955 Treaty on Mechanical Vehicles, Brussels Convention for Mutual Recognition of Tests of Brands of Handguns and Cartridges, The International Electrotechnical Commission's Quality Assessment System for Electronic Components (IECQ), the IEC International System for Confirmation of Test Results and Certification of Electric Equipment, the IEC Scheme for Certification to Standards for Explosive Atmospheres (IECEx). In other cases, recognition of the results of conformity assessment procedures is provided under multilateral or bilateral agreements.** **The central Committee of Gosstandart does not supply services because the federal bodies in Russia have no permission to provide commercial work. Appeal commission resolve the problems concerning the activities of accredited certification bodies.** **The number of domestic national (GOST R) standards is about 3000 and their level of harmonization is approximately 50%. The interstate standards (of CIS countries) are adopting as national standards. The overall number of national standards is above 22000 (and only 3000 standards of 22000 are domestic). The level of harmonization of overall national standards is 35%.** **Technical regulatiohs must correspond to interests of the national economy and also to the international norms and rules. If the international standards are effective for national economy they can be used as a basis for the technical regulation and such technical regulation corresponds to interests of the national economy.** **Article 2 "Basic Concepts" gives the following basic concept of technical regulation are used for the purposes of this Federal law:** **Technical regulation – is the document, which is adopted either by the Russian Federation international treaty ratified in accordance with the legislation of the Russian Federation, or by the federal law, or by decree of President of the Russian Federation, or by decree of the Russian Federation Government, and which establishes the obligatory requirements for technical regulating objects (for products, including buildings, structures and constructions, for processes of production, operation, storage, transportation, marketing and utilization).** **Article 7 "The Matter and Application of Technical Regulations" says** **6. The technical regulations shall be applied in identical way and in equal measure irrespective of the country and (or) place of product origin, realization of processes of production, operation, storage, transportation, marketing and utilization, types or peculiarities of bargains and (or) natural and (or) legal persons being manufacturers, executors, sellers, purchasers, taking into account the provisions of Clause 9 of this Article.** **Thus Local Government Bodies can not establish mandatory requirements.** **Article 3 "Principles of Technical Regulating" of the Law says** **The technical regulating shall be carried out in accordance with the principles of:**

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		application of uniform rules for establishing of the requirements for products, processes of production, operation, storage, transportation, marketing and utilization, executing of works or rendering of services. **A r t i c l e 31 "Accreditation of Certification Bodies and Test Laboratories (Centers)" says** **2. Accreditation of certification bodies and test laboratories (centers), executing the works on conformity assurance, shall be carried out on the basis of the following principles:** **inadmissibility of limitation of a competition and creation of barriers to use of services of certification bodies and accredited test laboratories (centers);** **ensuring of equal conditions for the persons applying for getting of accreditation;** **inadmissibility of combining the accreditation and conformity assurance powers;** **inadmissibility of establishing the limits for validity of accreditation documents in separate territories.** **3. Accreditation of certification bodies and test laboratories (centers), executing the works on conformity assurance, shall be carried out in the order established by the Government of the Russian Federation.** **A r t i c l e 30 "Recognition of Conformity Assurance Results" says** **Conformity assurance documents, marks of conformity, reports of researches (tests) and measurements of product, obtained outside the Russian Federation territory, may be recognized according to the international treaties of the Russian Federation.** **Thus, if any certification body or test lab was accredited as certification body or test lab in Russian accreditation system, then accreditation documents are valid in all territories and accredited certification body or test lab can issued a Russian certificate in territory they belongs to. As far as the results of certification body or test lab which has no accreditation in Russian system concerns there results may be recognized according to the international treaties of the Russian Federation.** **<u>Preparation, acceptance and application of the technical regulations (central / local) governmental bodies</u>** **1. The law " On technical regulating in Russian Federation in Clause 2 provided for that "Technical regulation - is the document, which is adopted either by the Russian Federation international treaty ratified in accordance with the legislation of the Russian Federation, or by the federal law, or by decree of President of the Russian Federation, or by decree of the Russian Federation Government, and which establishes the obligatory requirements for technical regulating objects (for products, including buildings, structures and constructions, for processes of production, operation, storage, transportation, marketing and utilization), and Clause 7 items 3 provided for that "The requirements for products, processes of production, operation, storage, transportation, marketing and utilization, the rules and forms of conformity assessment, the rules of identification, the requirements for terminology, packing, marking or labeling and the rules of their affixing, not included into technical regulations, may not be the obligatory ones"** **Therefore establishment of the obligatory requirements in the documents anyone not of the central bodies of authority is forbidden, and any infringement of the law will be punished according to the current legislation.** **2. Clause 7 items 2 provided for that "the requirements of technical regulations may not serve as a barrier to realization of business activity in the greater degree, than it is minimally necessary for execution of the purposes specified in Clause 1 of Article 6 of this Federal ",** **And Clause 6 projects of the law provided for that** **" 1. The technical regulations shall be adopted for the purpose of:** **protection of life or health of people, property of natural or legal persons, state or municipal property;** **protection the environment, life or health of animals and plants;**

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		prevention of actions misleading the purchasers. **2. Adoption of technical regulations for other purposes is not allowed.** **Clause 7 items 5 is specified** **" International and (or) the national standards can be used completely or partially as a basis for development of the projects of the technical regulations",** **And in Clause 12 Principles of Standardization are told** **«Standardization shall be carried out according to the principles of** **application of the international standards as a basis for development of the national standards, except for the cases when such application is recognized to be impossible as a result of noncompliance of requirements of the international standards with climatic and geographical peculiarities of the Russian Federation, with technical and (or) technological peculiarities, or by other reasons, or if the Russian Federation opposed against adoption of the international standard or its separate provision in accordance with the established procedures».** **Therefore use of the international standards as bases for development of the technical regulations is established by procedure of development of the technical regulations.** **3. In Clause 7 items 6 provided for that "the technical regulations shall be applied in identical way and in equal measure irrespective of the country and (or) place of product origin, realization of processes of production, operation, storage, transportation, marketing and utilization, types or peculiarities of bargains and (or) natural and (or) legal persons being manufacturers, executors, sellers, purchasers, taking into account the provisions of Clause 9 of this Article ", and in Clause 9 is specified** **" The technical regulation may contain the special requirements for products, processes of production, operation, storage, transportation, marketing and utilization, terminology, packing, marking or labeling and the rules of their affixing, applied in separate places of the products origin, if the absence of such requirements can result, taking into account the climatic and geographical peculiarities, in non-reaching of the purposes specified in Clause 1 of Article 6 of this Federal law".** **Any non-observance or infringement of the requirements of the technical regulation, and also provisions of Clause 2 and Clause 7 items 3 (see item 1 of the answers) project of the law should be pursued according to the current legislation ".** **4. Clause 14 items 1 provided for that "national standards body of the Russian Federation (hereinafter referred to as national standards body) shall participate, according to charts of the international organizations, in development of the international standards and shall ensure the taking into account of interests of the Russian Federation in process of their adoption ".** **Russia is the active member of the international organizations on standartization, and first of all ISO, IEC and МСЭ, takes part in work practically of all technical committees. Since 2000 till 2001 Russia was the member of ISO council. Russia votes under all projects of the international standards.** **<u>Preparation, adoption and application of standards</u>** **1. Russia already carries out the Code of Good Practice on Preparation, Adoption and Application of Standards. The given section is included into the Inter-Agency Program of measures to ensure full compliance with the requirements of WTO Agreement on Technical Barriers to Trade and WTO Agreement on the Application of Sanitary and Phytosanitary Measures in 2002-2005 (section II).** **2. A technical regulation contains as well procedures of conformity assessment. As to an opportunity of use voluntary standards for procedures of conformity assessment Article 16.9 of the Federal Law dated December 27, 2002 № 184-FZ "On Technical Regulating" says: "The national standards body shall affirm and publish in the print of federal executive body on technical regulating and in general-purpose information system in electronic-digital format the list of national standards which may be applied on a voluntary basis for observance of the requirements of technical regulations", and hence of the procedures of conformity assessment which are a part of a technical regulation. Thus, complying with these voluntary standards a manufacturer will automatically meet the obligatory requirements of the technical regulations.**

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		Therefore, use of standards as a proof of conformity is not obligatory, though their application can be considered as a presumption of conformity to the requirements of technical regulations. **<u>Procedures of conformity assessment</u>** **1. Article 23.2 of the Law provided for that "the form and schemes of obligatory conformity assurance may be established only by technical regulation taking into account the risk degree of non-reaching the purposes of technical regulations,** **Article 46.3 "Transition provisions" provided for that "the Government of the Russian Federation, before coming into force of the appropriate technical regulations, shall yearly define and supplement the list of separate types of products, in relation to which the obligatory certification is substituted for declaring of conformity realized in the order, established by this Federal law".** **Now the list of products falling under the obligatory certification is reduced by 25 % after the acceptance of the Order of the Government of the Russian Federation dated April 29, 2002 №287 "About modification in the list of the goods subject to obligatory certification, list of works and services subject to obligatory certification, and in the list of products which conformity can be assured by the declaration of conformity".** **Further only products with high level of danger will fall under obligatory certification, as it is told in above-stated Article 23.2.** **2. Article 24 items 1, 2, 3 and 4 provided for that** **"1. Declaring of conformity shall be carried out using one of the following schemes:** **assuming of supplier's declaration on the basis of own proofs;** **assuming of supplier's declaration on the basis of own proofs, the proofs obtained with participation of certification body and (or) accredited test laboratory (center) (hereinafter referred to as third party).** **When declaring the conformity an applicant may be both legal or natural person, registered according to the legislation of the Russian Federation in its territory, or being a manufacturer or a seller, or executing the functions of a foreign manufacturer on the basis of a contract with it regarding the conformity assurance of delivered products to the requirements of technical regulations and regarding the responsibility for nonconformity of delivered products to the requirements of technical regulations (the person executing the functions of a foreign manufacturer).** **The range of applicants shall be established by appropriate technical regulation.** **The scheme of declaring of conformity with participation of a third party shall be established in technical regulation in case when the absence of the third party results in non-reaching of the purposes of conformity assurance.** **2. When declaring the conformity on the basis of own proofs the applicant shall independently form the evidentiary materials for the purpose of conformity assurance of products to the requirements of technical regulations. The technical documentation, the results of own researches (tests) and measurements and (or) other documents, which can serve as the motivated basis for conformity assurance of products to the requirements of technical regulations, shall be used as evidentiary materials. The set of evidentiary materials shall be defined by appropriate technical regulation.** **3. When declaring the conformity on the basis of own proofs and those obtained with participation of a third party, an applicant, at his own will and in addition to his own proofs formed in the order provided for in Clause 2 of this Article, shall:** **include in evidentiary materials the reports of researches (tests) and measurements carried out in accredited test laboratory (center);** **grant the certificate of quality system, in relation to which there is provided for the control (supervision) of certification body, which has issued the given certificate, over certification object.** **4. The certificate of a quality system may be used together with the proofs when assuming the supplier's declaration for any products, except for the case when technical regulations stipulate for such products other form of conformity assurance."** **Concerning registration of a declaration, Article 24 items 6 and 7 provided for that**

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		"6. The supplier's declaration made out according to the established rules is subject to registration by the federal executive body on technical regulating within three days. **For registration of the supplier's declaration the applicant shall submit to federal executive body on technical regulating the supplier's declaration made out according to the requirements of Clause 5 of this Article.** **The order of maintenance of the supplier's declarations register, order of granting the information contained in the specified register, and order of payment for granting of this information shall be defined by the Government of the Russian Federation.** **7. The supplier's declaration and attached evidentiary documents shall be stored by the applicant within three years from the moment of termination of period of validity of the declaration. The second copy of the supplier's declaration shall be stored in federal executive body on technical regulating.** **3. Article 27. "A mark of market access" provided for that** **"1. Products, whose conformity to the requirements of technical regulations is confirmed in the order provided for by this Federal law, shall be marked with a mark of market access. The image of the mark of market access shall be established by the Government of the Russian Federation. The given mark is not special protected mark and is affixed for information purposes.** **2. Marking with a mark of market access shall be carried out by the applicant independently by any convenient way.** **Products, whose conformity to the requirements of technical regulations is not confirmed in the order established by this Federal law, may not be marked with a mark of market access."** **4. Article 7.2 provided for that** **"The requirements of technical regulations may not serve as a barrier to realization of business activity in the greater degree, than it is minimally necessary for execution of the purposes specified in Clause 1 of Article 6 of this Federal law."** **Article 23.2 of the Law provided for that** **"The form and schemes of obligatory conformity assurance may be established only by technical regulation taking into account the risk degree of non-reaching the purposes of technical regulations."** **Thus, procedures of conformity assessment cannot be more burdensome than it is minimally necessary to meet the requirements of a technical regulation and should be applied equally (non-discrimination), and the provisions of the Federal law are obligatory within the whole territory of the Russian Federation.** **5. Certificates issued by foreign certification bodies are accepted only if:** • **it is stipulated by an appropriate international agreement;** • **Russia has joined the international certification systems within the framework of which these tests have been carried out;** • **the given certification body (or a test laboratory) is accredited in the system of accreditation of the Russian Federation.** **Russia actively cooperates within the framework of international systems of certification (see information in RUS/13) and in the nearest future is going to become a member of ILAC and IAF. In this case Russia will be in complete conformance with the rules of these organizations.** **6. In the Law it is stipulated that the procedures of conformity assessment will be provided by appropriate technical regulations. Therefore Gosstandart of Russia will not further establish any requirement on conformity assurance (including certification), and its activity will be concentrated only on accreditation procedure.** **In light of this provision of the Federal law Gosstandart of Russia is already withdrawing certification bodies from the system of its institutions which function is the realization of state control and surveillance.**

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96.	**226-245**	**- Sanitary and Phytosanitary Measures**
97.	226-245	**General comments** Valid and well justified comments and requests for further information are raised in Doc WT/ACC/SPEC/RUS/29. Unfortunately Russia fails to provide clear replies. The Russian response is mainly copied from the Draft Working Party report WT/ACC/SPEC/RUS/25/Rev.1 and includes few new elements. Therefore, it does not provide replies for most of the questions raised. The necessary clarification for a very confusing description of the various procedures/authorities involved in authorising imports of commodities under the SPS rules is still lacking.
98.		**Import authorisations in general** A "state registration" seems to be an essential part of import authorisations although its exact contents remain unclear. However, Russia now states that the "state registration" would only apply from 2006 (page 40, first paragraph). Does this mean that all points where Russia refers to "state registration" would only apply from 2006? The connection between the state registration and the import permits issued by the Chief Veterinary Officer (MOA) remains unclear. Russia explains that the Ministry of Health, in conjunction with the Ministry of Agriculture, is responsible for the state registration of imported food products of animal origin. On the other hand, Russia states that a permission from the Chief Veterinary Officer (MOA) is required for all imports of products of animal origin (Article 14 of the Federal Law on Veterinary Services, No 4979-1 of 14 May 1993). Is the Ministry of Agriculture competent only for animal health aspects or does it also cover veterinary public health? In conclusion, there appears to be a duplicate administrative procedure for authorising imports of food products of animal origin as both a state registration and an import permit is required. This could create an administrative barrier to trade. Therefore, Russia should further clarify this point.
99.		**Imports of live animals and products of animal origin** Russia provides a new description on the system for authorising imports of live animals and products of animal origin (page 44 of WT/ACC/SPEC/RUS/29). As regards the list of "controlled products" (para 2) a reference is made to the Government Resolution of 29 October 1992, No 830. This contradicts earlier statement which says that the list of "controlled cargoes" is contained in the letter of the Veterinary Department, No13-8-01/3009 of 16 May 2000. In any case, if the list of products is the one presented in WT/ACC/SPEC/RUS/21/Rev.1 (reference paper 10) it is overwhelming. It includes items for which there should be no need for veterinary controls, e.g. products of purely vegetable origin. Certain products on this list also appear on the list of goods subject to quarantine and phytosanitary control (reference paper 11) of the same document indicating that the controls are sometimes overlapping. We have established a list of products which have to undergo veterinary border inspection when imported to the EU. This list is laid down in Commission Decision 2002/349/EC[2]. We invite Russia to study this decision. In paragraph 3 Russia states that the import conditions to be fulfilled by the exporting countries are laid down in the "Veterinary requirements in respect of imports to the Russian Federation of animal cargoes, approved by the Veterinary Department on 23 December 1999", letter No 13-8-01. However, in

[2] OJ L 121, 8.5.2002, p. 6

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		the second paragraph on page 42 Russia states that this letter applies only to imports from countries which do not have bilateral agreements with Russia. Russia should clarify this issue and provide a translated copy of this letter. In paragraph 4 Russia states that "finished products of animal origin that have undergone a thermal treatment" do not require an import authorisation from the Chief Veterinary Officer. Instead, in para 6 it is stated that "imports of finished products are administered by the Chief State Veterinary Inspector of the Region in his own discretion". Russia should clarify the definition of a "finished product" and specify which rules apply for their imports. How is it guaranteed that the regional services apply uniform SPS measures for imports of "finished products"? In paragraph 5 it is stated that the regional veterinary services consider the application of an importer on condition that the importer is able to provide proper conditions for storage and processing of products. Russia should further explain which criteria is applied for evaluating these conditions and how it is guaranteed that uniform criteria is applied in different regions and for imported and domestic products. In paragraph 6 it is stated that the Chief Veterinary Officer considers the submission of the regional services by reference to the epizootic situation in the exporting country, and issues permission or prohibition to import. In general, a system of individual import permits, although not necessarily against the SPS Agreement, risks being non-transparent, non-coherent, non-consistent and discriminatory. Therefore, Russia should clarify whether the criteria (the import requirements) for issuing import permits is published as legally binding legislation and uniformly applied to all applicants. Moreover, amendments to the import requirements must be subject to prior notification in accordance with the SPS Agreement. In paragraph 9 Russia states that the requirements concerning imports of products of animal origin were modified in 1999 so that they became science based and reflect the OIE recommendations. This is contradicting the information in the Non-Paper of 17 June 2002 (Interdepartmental Program to ensure compliance with the TBT and SPS Agreements) where in points 1.3.5. and 1.3.6. it is mentioned that the SPS measures should be aligned with the international guidelines and be science based only by 2005. Russia should clarify this issue.
100.		**Framework laws** The situation with regard to framework legislation remains unclear. Russia states that after entry into force of the Federal Law No 184-FZ of 27 December 2002 "On Fundamentals of technical Regulation in the Russian Federation" all requirements of the WTO SPS Agreement would become mandatory (page 44, second paragraph). It seems unlikely that this law would overrule the vertical framework laws on veterinary and public health matters. Indeed, in the Non-Paper of 17 June 2002 (Interdepartmental Program to ensure compliance with the TBT and SPS Agreements) in points 1.3.2. and 1.3.9 it is mentioned that amendments are also needed in the Federal Law on Sanitary and Epidemiological Well-Being of Population (No 52-FZ of 30 March 1999) in the Federal Law on Veterinary Services (No 4979-1 of 14 May 1993). Russia should explain the foreseen amendments more in detail, in particular their relevance to the compliance with the SPS Agreement.
101.		**Permanent Russian inspectors in the EU** We maintain our position that the requirement for pre-shipment inspection of fresh meat by the Russian veterinary services in the exporting countries is not in accordance with the SPS Agreement. Therefore, we invite Russia to abolish this system and to rely on the certificates signed by the authorities of the exporting countries at latest by the WTO accession. Russia fails to address this issue in its response in Doc WT/ACC/SPEC/RUS/29 although this is specifically asked.

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		In paragraph 237 of the Draft Working Party Report (WT/ACC/SPEC/RUS/25, Rev.1) Russia insists that this system is in accordance with the OIE Animal Health Code. This is not a correct statement since Chapter 1.2.2 of that Code concerning the certification procedures does not recognise a system where officials of importing country sign export certificates in the exporting country. Instead, Article 1.2.2.3. of the Code clearly states that "Certifying veterinarians should be authorised by the Veterinary Administration of *the exporting country* to sign international veterinary certificates".

102.	226-245	WT/ACC/SPEC/RUS/29 contains what appears to be a revision of the SPS chapter of the WP Report. While we welcome new information provided, we have the following concerns:
		
		It does not directly address many of the questions raised by Members on the previous draft.
		- It introduces information on new legislation in the SPS sphere, without an adequate description of which aspects of the existing policy regime will become redundant and which will remain in effect.
		- It does not assist the Working Party to track and eventually resolve outstanding concerns, or move towards the drafting of commitment language in the Working Party report.
		
		The steps we feel are needed to take this process forward are as follows:
		
		- Russia needs to restructure and augment the information provided in WT/ACC/SPEC/RUS/29 by tabulating specific answers against each comment/question made by Members.
		- This chapter of the report needs to be re-drafted to:
		  - capture outstanding concerns and explain clearly how Russia's new legislation in the SPS/TBT sphere addresses those concerns;
		  - include commitment language designed to address concerns.
		
		Working Party Report Chapter on SPS Issues
		- As it stands, this section of the draft report represents a description of Russia's SPS policy framework, relevant laws and regulations, and some detail on requirements for the export of products to the Russian market.
		- It has a number of problems and gaps that need to be addressed. Members have sought to rectify these shortcomings, but insufficient responses from Russia have meant that there has been little progress in resolving outstanding concerns.
		- There are a number of aspects of the draft that need to be addressed for this aspect of the accession to move ahead, and appropriate commitments to be identified. The information provided on new legislation in the SPS sphere is useful, but does not adequately address how Russia's system will meet key aspects of the SPS agreement.
		- Below is a list (not exhaustive) of the key concerns we consider should be reflected in additional paragraphs for the report. We ask that Russia provide a full response to each of these issues and explain how they will be addressed. We reserve the right to provide more detailed text for future discussions on SPS issues as the draft report evolves.
		
		Basic Rights and Obligations
		- A key requirement of Article 2 of the SPS Agreement is that SPS measures should be applied only to the extent necessary to protect human, animal, or plant life or health. Russia describes a list of multiple certification requirements associated with exporting products of animal origin to Russia, with insufficient explanation of the need for these various layers of certification in protecting human, animal, or plant life and health.
		- Members are concerned that Russia applies discriminatory measures, including requirements affecting imports that are more restrictive than those affecting domestic production, despite similar or identical conditions. For example, more stringent testing or conformity assessment is required of some imported products than is applied to the domestic product despite similar risks to plant, animal or human life. These constitute disguised restrictions on international trade (Article 2:3 of the SPS Agreement).

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		For example, in relation to dairy products, Russia requires exporting countries to certify freedom from certain diseases that are prevalent on its own territory (and have been notified to the OIE). **Transparency** The draft report currently does not address how Russia will meet the various requirements of the SPS Agreement in relation to Transparency and Notification of measures. Members are concerned about insufficient periods of notification of new or amended measures, which in effect do not allow time for producers in exporting Members to adjust to new conditions. **Recognition of Disease-Free Status** The draft report does not address Members' concerns that Russia does not fulfil Article 6 of the SPS Agreement in relation to the importation of some products of animal origin. In particular, Russia continues to make the export of some products conditional upon testing for diseases which are not prevalent in the exporting Member's territory. In the case of wool, Russia requires national registration and full-time monitoring of production of wool in the territories of some Members, despite the absence of diseases that could contaminate product. **Assessment of Risk** The draft report does not address Members' concerns that Russia does not ensure SPS measures are based on a true assessment of the risks to human, animal or health life, taking into account risk assessment techniques developed by the relevant international organisations. For example, in the case of fish exports, Russia requires that the fisheries products contain no preservatives. This is despite the fact that the use of a form of salt preservation is used throughout the world in prawn industries and is an international standard. **Equivalence** Members are concerned that Russia does not have adequate policies and measures in place to accept the sanitary and phytosanitary measures of other Members as equivalent in achieving Russia's level of sanitary and phytosanitary protection. In particular, Members are concerned that Russia requires more frequent access to establishments within exporting Members for the purposes of inspection and testing, but with little attempt to eventually recognise the equivalence of those Members' SPS measures. **Transit Provisions** The draft report does not address Members' concern about Russian non-compliance with WTO rules on transit trade. In particular, a requirement that the transit of product through third countries to Russia be conditional on obtaining a "permit" and agreement on the itinerary of the cargo does not comply with Article V(3) and V(1) of GATT 1994. Furthermore, details of the requirements underpinning such "permits" is required to assess consistency with the WTO Agreement on Import Licensing Procedures. **Import Licensing** Russia appears to apply a form of non-automatic licensing to the importation of products of animal origin. Members are concerned that Russia may not apply that scheme in accordance with the provision of the WTO Agreement on Import Licensing Procedures and other relevant GATT articles. In particular, Russia requires importers to demonstrate adequate facilities for storage/processing imported product such as meat, but it is not clear that the same requirement is applied to purchasers of domestically-produced product in compliance with GATT Article III. **Other Issues** Change of Buyer Status: Members have concerns that Russian procedures that are applied where is a change in Russian consignee for a shipment, involving the reconsideration by Russian authorities of veterinary certificates, do not comply with relevant WTO provisions. This issue, including full

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		procedures involved, will need to be addressed in the Working Party report.
103.		**State Trading Enterprises**
104.		**<u>Russian Federation:</u>** **Pursuant to Article 50 of the Civil Code of the Russian Federation Russian legal entities are divided into commercial and non-commercial organizations.** **The organizations whose key activity goal is making profit are recognized as commercial. One of the forms of a commercial legal entity is a state unitary enterprise. The only distinction between the state unitary enterprise and other forms of commercial organizations is that it possesses no ownership right for the property that has been assigned to it by the proprietor. The property of the state or municipal enterprise is, thus, regarded as state or municipal property and the right of such enterprise to this property is limited to economic management or operational management.** **The Law of the RSFSR No.948-1 of 22 March 1991 (in the edition of 09 October 2002) "On Competition and Restriction of Monopoly Activity on Commodity Markets" determines organizational and legal basis of prevention and cutting up monopoly activity and unfair competition on commodity markets in the Russian Federation as well as restriction on competition by federal executive bodies, governmental bodies of the subjects of the Russian Federation, local government, other authorities or organizations vested with functions or rights of said bodies of power.** **The managing subjects which hold a dominant position on the market shall be prohibited from actions (non-actions) that result or may result in prevention, restriction or elimination of competition and (or) limitation of interests of other managing subjects. Such actions include:** • **withdrawal of goods from turnover, the purpose or the result of which is the creation or maintaining the situation of deficit on the market, or raising of the prices;** • **imposition on a contracting party of the terms of the contract which are not profitable for the contracting party or have no relation to the subject-matter of the contract (unjustifiable demands for the transfer of financial resources, other assets, property rights, the workforce of the contracting party, the consent to sign a contract only on condition of introducing thereto the provisions which concern the commodities the contractor is not interested in, and others);** • **creating conditions for access to the commodity market, exchange, consumption, acquisition, production and sale of commodities which place one or more managing subjects in a non-equitable position, as compared to other managing subjects (discriminating terms);** • **creating impediments to other managing subjects in their access to the market (withdrawal from the market)** • **violation of the price formation procedure established by the relevant legislation, etc.** **The dominant position is the exclusive position of a managing subject or several managing subjects on the commodity market when there is no substitute for commodities or no intersubstitutional commodities (further referred to as "a certain commodity"), which enables it or them to exert decisive influence on the common terms of the circulation of commodities on the respective commodity market or hinder the access for other managing subjects to the market.** **The position of a managing subject shall be recognized as dominant, if its share of a certain commodity on the market amounts to 65 per cent and more, except for the cases when the managing subject proves that, despite the excess of the said percentage amount, its position is not dominant on the market.** **The position of a managing subject shall also be recognized as dominant, if its certain commodity share on the market amounts to less than 65 per cent, provided that this fact has been recognized by the antimonopoly body on the basis of the stability of the share of the managing subject on the market, the relative amount of the competitors' shares on the market, the possibility of access of new competitors to this market or other criteria characterizing the commodity market. The position of the managing subject whose share of a certain commodity on the**

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		market does not exceed 35 per cent may not be recognized as dominant. **In order to state control the observance of the antimonopoly legislation the antimonopoly authority shall keep a record of the managing subjects which possess a share of a certain commodity on the market amounting to over 35 per cent.** **In case of systematic exercise of the monopoly activity by the managing subject which hold a dominant position on the commodity market the antimonopoly authority shall be entitled to issue an order on the compulsory division of a profit-making organization or a nonprofit-making organization, or on the singling out from them of one or several organizations.** **The establishment, merging, joining of profit-making and nonprofit-making organizations, alteration of their participants' membership which is done in defiance of the procedure established by the Law leads to the restriction of competition, including that which occurs as a result of appearance or increase of domination, as well as failure to execute the order of the antimonopoly authority, shall be regarded as grounds for their liquidation judicially at the suit of the antimonopoly authority.** **The profit-making and non-profit making organizations (their heads), the federal executive bodies, the executive bodies of the subjects of the Russian Federation, the local government, other bodies or organizations vested with the functions and rights of said bodies of power (their officials), natural persons, including individual entrepreneurs, shall be obliged to commit the actions provided for by a decision or an order of the antimonopoly authority within the term established therein.** **Violation of the antimonopoly legislation the officials of the federal executive bodies, the executive bodies of the subjects of the Russian Federation, local government, and other bodies and organizations vested with functions and rights of said bodies of power, the profit-making and non-profit making organizations or their heads, as well as natural persons, including individual entrepreneurs, shall bear civil , administrative or criminal liability (a fine, comprehension or imprisonment to up to 7 years with or without confiscation).**
105.		**Free Economic Zones**
106.		**<u>Russian Federation:</u>** **Russian legislation provided for the establishment of free-trade zones: Special Economic Zone in the Kaliningrad Region in the Magadan region and in Nakhodka. Actually only one Special Economic Zone (SEZ) is operative due to the specific geographical location of the Kaliningrad region.** **The Free Economic Area "<u>Nakhodka</u>" was formed in October 1990, as the Russian Federation's first free economic area. Its free economic regime is regulated by Resolution of the RSFSR Supreme Council of 24 October 1990 "On Creation of a Free Economic Zone Centred on the Town of Nakhodka in Primorsky Krai", and Government Resolution No. 1033 of 8 September 1994 "On Certain Measures of Development of the Free Economic Zone of Nakhodka". Exports and imports of goods to and from the Free Economic Area "Nakhodka" are regulated by the ordinary customs regime.** **<u>Magadan</u> Special Economic Zone is created under Federal Law No. 104-FZ of 31 May 1999 "On the Special Economic Zone in Magadan Region", and Law of Magadan Region No. 80-FZ of 5 July 1999 "On Changing the Administrative and Territorial Structure of Magadan Region". The procedure for determining that goods originated from the Special Economic Zone in Magadan Region is provided under Order No. 829 of 30 November 1999 of the SCC "On the Procedure for the Determination of the Origin of Goods from the Special Economic Zone in the Magadan Region", and the "Guidelines for Determining Goods as Originating from the Special Economic Zone in Magadan Region" contained in a joint Letter of the State Customs Committee and the Administration of Magadan Region No. 01-11/10593 of 25 April 2000. The territory of Magadan Region is a free customs zone, which means that foreign goods are imported to the territory of the Special Economic Zone free of customs duties and taxes. Foreign goods export from the territory of Magadan Region within or outside of the customs territory of the Russian Federation are liable to customs duties in full amount. Foreign goods undergoing a certain amount of processing and which would qualify for the definition of sufficient processing, are deemed to be Russian goods and are not liable to import customs duties and other taxes when entering the rest of the customs territory of the Russian Federation. The criteria of sufficient processing of goods in the Special Economic Zone are as follows: change of commodity classification (HS code); implementation of certain production and**

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		technological operations sufficient for the goods to be deemed to originate from the Special Economic Zone; and change of cost of goods, provided the value added by processing amounted to no less than 30 per cent of the goods (no less than 15 per cent for electronics or sophisticated home appliances). Tax and customs benefits are to be maintained until 31 December 2014 – the last effective date of the Law "On the Special Economic Zone of Magadan Region". **Under Federal Law No. 13-FZ of 22 January 2000 "On The Special Economic Zone in the Kaliningrad Region" (as amended on 27 December 2000) all goods (excluding goods covered by quantitative restrictions), imported into the Kaliningrad Region are exempted from customs duties and payments (excluding charges). Under Article 7 of Federal Law No. 13–FZ of 22 January 1996 "On a Special Economic Zone in the Kaliningrad Region", goods manufactured in the Special Economic zone and exported to other countries or transported to the rest of the Russian Federation should be exempt from customs duties and other charges payable upon the customs registration of goods (except customs fees). The goods stated should not be subject to economic policy measures (measures on non-tariff state regulation of foreign trade). Goods imported to the Special Economic Zone from other countries and then transported to the rest of the Russian Federation as well as to the territory of the Customs union (except goods which have been recycled in the Special Economic Zone and are considered to have been manufactured in this zone), should be subject to import customs fees and other fees payable upon the customs registration of goods. Economic policy measures could be implemented to the goods stated. Under Federal Law No. 13–FZ of 22 January 1996 "On a Special Economic Zone in the Kaliningrad Region", Russian and foreign investors and entrepreneurs are granted privileges under fiscal law of the Russian Federation and the legislation of the Kaliningrad Region. The administration of the Kaliningrad Region with the agreement of the Government of the Russian Federation and the Central Bank of the Russian Federation has the right to set privileges for Russian and foreign banks in regard to their work on the carrying out of the federal state program of the development of the Special Economic Zone. No value added tax should be levied on profits from transportation services, loading and unloading services, reloading and storage in the course of the transportation from the Special Economic Zone to the rest part of the customs territory of the Russian Federation and from the rest part of the customs territory to the Special Economic Zone.** **The legislation in force (Federal Law No. 176-FZ of 24 December 2002 "On the Federal Budget for 2003") abrogated the excise and VAT exemptions for imports of excisable goods under free customs zone regime of the territory of the Kaliningrad SEZ in the year 2003. However, if such goods are later exported to other regions of the Russian Federation, customs import duties are payable in full, with the exception of goods processed or deemed to have been processed in the Kaliningrad Region. Under Federal Law No. 13-FZ of 22 January 1996 "On the Special Economic Zone in the Kaliningrad Region", a product is deemed to be manufactured in the Special Economic Zone provided that the value added in the processing amounted to no less than 30 per cent, or no less than 15 per cent in electronics and sophisticated home appliances, and its processing resulted in a change of the HS code of such product according to the customs classification. The procedure for determining a product as originating from the special economic zone is established by a Joint Resolution of the Administration of Kaliningrad Region and the SCC of Russia No. 296-r/01-14/1365 of 31 December 1998 "On Approval of the Procedure for Determination of Goods as Originating from the Special Economic Zone of Kaliningrad Region", registered by the Ministry of Justice in Regulation No. 1892 of 9 July 1999.** **The main social - economic problems of the Kaliningrad Region occur because of its specific geographical location. The region's economy is mainly oriented to import substitution industry and basically functions due to customs and tax preferential regime of the SEZ.**
107.	**268-271**	**- Government Procurement**
108.	**268-271**	**Russian Federation:** Draft Federal Law "On Placement of Orders for Deliveries of Goods, Performance of Works and Provision of Services for Public Needs" is addressing the following key tasks: - to systematize the legislation of the Russian Federation on state procurement; create a framework normative legal act to regulate civil law and

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		procedural aspects of such procurement; - to ensure transparency of the mechanism of procurement of products for public needs; to stimulate good competition and effective use of budgetary funds; - to eliminate regulatory loopholes encouraging malpractices by stricter regulation of procurement procedures; - to bring the Russian state procurement legislation into conformity with international laws, to profit by positive regulatory experience of foreign states in state procurement and to implement regulatory and legal acts of international organizations. The draft federal law: - lifts the existing forbidding limitations for engagement of foreign suppliers for product deliveries for public needs, and systematizes the procedure for participation of such foreign suppliers in tenders; - allows qualifying mediation agencies to participate in tenders and deliveries of products for public needs; - clearly distinguishes tender and non-tender procurement methods (buying from single source); - extends the powers of the relevant executive authority in respect of control of compliance with procurement procedure; - provides a mechanism of bid processing; - establishes generally recognized criteria of evaluation of bids and determination of the winning bidder; - provides for protection of rights and lawful interests of affected persons in respect of placement of orders for deliveries for public needs; - the scope of the draft law includes all product procurements and deliveries on the territory of the Russian Federation financed with the funds of the Federal Budget of the Russian Federation, regional budgets and non-budgetary funds of the Russian Federation and Russian Federation Regions.

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109.	**272-275**	**- Regulation of Trade in Transit**
110.	272-275	Our delegation would like to thank the secretariat for accurate drafting of questions in this section. We also appreciate response provided by the Russian Federation, however it should be mentioned that the response is not sufficient one and needs to be further broadened in order to address specific issues raised by members. Our delegation once again would like to ask the Russian Federation to provide detailed information on questions that are still outstanding in this section, including those on: transit of goods of dual usage, circumstances under which the Russian Federation may impede transit of other countries' exports through its territory, etc. We would also welcome the clarifications from the Russian Federation what is the rationale for making the distinction between the humanitarian cargoes if they consist of the same goods but they have different recipients - governmental or non-governmental institutions, as it is provided by the Decree of the State Customs Committee of the Russian Federation No 1055 dated 6 November 2001. For example, if clothes or other goods are destined for institutions financed by state budget they are treated as humanitarian cargo but if the same category of goods is destined for non-budgetary organizations they are not considered as humanitarian cargo. Do these provisions apply to humanitarian cargoes destined to other countries and going in transit through the territory of the Russian Federation?
111.	**285-287**	**TRADE-RELATED INTELLECTUAL PROPERTY REGIME (TRIPS)** **General**
112.	285-287	- Regarding Article 44 of the TRIPS Agreement, please explain the current legislative situation on establishment of the system for the injunction of imported goods including the infringement of Intellectual Property Rights. - At the experts meeting on TRIPS in September of 2002, we were informed by Russia that further expanding the power of custom authorities is discussing in DUMA. - Please explain the updated situation on expanding the power of custom authorities. - We understand that Russia is to amend its law related to Intellectual Property Rights, including copyright law in order to fully meet the obligations of TRIPS Agreement and Berne Convention. Please clarify which points of current these laws have been or need to be amended. Please provide the schedule of amendments of these laws as well. - We recognize that counterfeited goods and pirated works of foreign countries are widely distributed in Russia. Please provide us with detailed explanation as to what kind of measures the Russian Government will take in order to combat infringement. In addition, please explain the articles which ensure effective remedies and enforcement system stipulated in TRIPS Agreement. Moreover, please provide the detailed data concerning the market scale of counterfeited goods and pirated works and the number of cases that criminal penalties have been applied.
113.	285-287	We would like to underline the importance of adapting the Russian legislation, especially the legislation being revised at the moment, to the TRIPS requirements, for the accession of the Russian Federation to the WTO. We would also like to mention our concern regarding the distribution of counterfeited and pirated goods in Russia, particularly in the health-care domain and the optical media industry, and the need to find a solution to this growing problem. Furthermore, we would like to stress the fact that in order to assess the legislative situation in the field of intellectual property, it is necessary to be in possession of English translations of the pending draft laws and to be updated regularly on the progress of the enactment procedure of those laws. Furthermore, information regarding the manner in which those laws are going to be implemented in practice in order to fulfil the TRIPS requirements would be very welcome.
114.	285-304	In general, this entire section will need updating based on the new legislation. It should also be amended to record members' concerns as expressed in WP deliberations and recorded in WT/ACC/SPEC/RUS/31 (at page 35), and WT/ACC/SPEC/RUS/32 (pages 18-26), particularly with regard to overarching concerns with enforcement.

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115.	285-287	These paragraphs do not record sufficient general information on Russia's intellectual property (IP) regime, e.g., a clear listing of the key legislation in force or pending, on the responsible agencies for intellectual property protection in Russia, on Russia's membership in IP Conventions, on where the application of National and MFN treatment can be found in Russian law, or on the fees and taxes charges. This information was first provided in WT/ACC/RUS/7 and Add.1, and should be updated, as necessary, and included in the WP report.
116.	285	the last sentence should be deleted, as it is redundant with paragraph 292.
117.	*285-304*	*The TRIPS Agreement allows Members some discretion in the measures that are implemented. For example, Article 27(3) provides exclusions from patentability.* - *What exclusions from patentability will Russia be applying?* *Russia has commented on the legal provisions that will be in place to combat infringements of intellectual property rights. However, these provisions will only be effective if the owners of intellectual property rights and the public are aware of the intellectual property system and those rights.* - *We ask Russia to provide information on what action the Russian authorities are taking to increase awareness of intellectual property rights among the public, the judiciary, education and research institutions, industry and businesses.* *WTO Members are bound by the provisions of the TRIPS Agreement which subject their pharmaceutical industries to 20 years of patent protection. We would expect this minimum patent protection to be implemented by Russia.* - *Will Russia subject its pharmaceutical industry to a term of patent protection of not less than 20 years?*
118.	**285**	**Russian Federation:** The representative of the Russian Federation said that the national system of protection of intellectual property rights complied with the basic international standards adopted in this field, including the provisions of the WTO Agreement on TRIPS. The framework of the Russian Federation's policy on intellectual property was determined by the Constitution of the Russian Federation (Article 44, item 1) which in particular guaranteed freedom of literary, artistic, scientific, technical and other types of creative activity, and provided protection for such activities. The whole system of the Russian legislation in force supported the implementation of this constitutional right. A number of international agreements signed by the Russian Federation constituted an integral part of this system. He also informed that the new Arbitration Procedure Code (Federal Law No. 95-FZ of 24 July 2002 on "Arbitration Procedure Code") would enter into force on 1 September 2002. The draft law on amendments to the Patent Law set forth that plants, animals, layout-designs of integrated circuits, decisions that were contradictory to public interests, principles of humanity and moral were excluded from patentability.

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119.	**285-287**	**<u>Russian Federation:</u>** Pursuant to the amendments made by Federal Law 22-FZ of February 7, 2003 “On Making Amendments and Supplements to the Patent Law of the Russian Federation” the following are now considered to not be patentable: types of plants, species of animals; layout designs of integrated circuits; solutions incompatible with public interests, principles of humanity and morals. This amendment is entirely consistent with the requirements of para. 2 and 3 of Article 27 of the TRIPS Agreement. Russia currently strongly emphasizes media coverage of issues related to intellectual property rights, and keeping citizens, judiciary and business informed of the IP rights. Training programs are run regularly under the auspices (or with participation) of Rospatent to provide training and skills upgrade to experts in intellectual property protection, and other events to encourage invention process (conferences, seminars) are held. The underlying legal acts, information on the activity of Rospatent and other information are published on the official Rospatent website. Evidencing the attention given by the regulators to public awareness of intellectual property rights, a special meeting of the Russian Federation Government was convened on 3 October 2002 devoted to means of supporting legal dealing in products containing intellectual property objects and protection of the consumer market from the spread of counterfeit goods in Russia. The meeting took a number of important decisions concerning measures to enhance and coordinate the efforts of the competent authorities in prevention and combat of IP rights infringements and in increasing public awareness of the measures undertaken. E.g. the Ministry of Press, TV and Radio Broadcasts and Mass Media was instructed to provide mass media coverage of any actions taken against IP infringements. Under the Patent Law, including amendments made by Federal Law 22-FZ of February 7, 2003 “On Making Amendments and Supplements to Patent Law of the Russian Federation”, the validity term of patents for all types of inventions without exception is 20 years from the date of application, which is consistent with Article 33 of the TRIPS Agreement. The new law provides for possible extension of this term. The validity term of the patent for an invention that is a medicine, a pesticide or an agrochemical the use of which requires statutory permission, may be renewed by the federal executive authority for intellectual property based on the patentholder’s application, for a term calculated as the period between the date of application for invention and the date of permission for use being first granted less five years. The term of such renewal cannot exceed five years.
120.	286	the “World Convention on Copyright” should be changed to the “Universal Copyright Convention”.
121.	**286**	**<u>Russian Federation:</u>** He noted that the Russian Federation applied national treatment to the legal entities and individuals of those countries which had signed the treaties providing for such treatment (in particular, the Paris Convention for the Protection of Industrial Property, the World Convention on Copyright, and the Bern Convention for the Protection of Literary and Artistic Works) both directly pursuant to such covenants (Clause 4 of Article 15 of the Constitution of the Russian Federation provided for the direct application and prevalence of international agreements) in accordance with the obligations undertaken under these treaties and in accordance with applicable provisions of legislative acts of the Russian Federation (in particular, Articles 36 and 37 of the "Patent Law of the Russian Federation" No. 3517-1 FZ of 23 September 1992; Articles 47 and 48 of Federal Law No. 3520-FZ of 23 September 1992 "On Trademarks, Service Marks, and Appellations of Origin"; Article 3, Article 5:1 and Article 35:4 of Federal Law No. 5351-1 FZ of 9 July 1993 "On Copyrights and Related Rights"; Article 7 of Federal Law No. 3523-1 FZ of 23 September 1992 "On the Legal Protection of Computer Programs and Databases"; and Articles 13 and 14 of Federal Law No. 3526-1 FZ of 23 September 1992 "On the Legal Protection of Layout Designs of Integrated Circuits"). The application of most-favoured-nation treatment (subject to exceptions regarding certain preferences granted by the Russian Federation under certain treaties including those with CIS countries) as to intellectual property was additionally provided for under the treaties signed with the European Union and ourselves. As a party to the Euroasian Patent Convention the Russian Federation granted no advantages and privileges to other parties under this Convention. Any party to this Convention which used the procedure set out in the Convention could obtain the benefits of being a

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		party to the Convention within the territory of any signatory.
122.	**287**	**Russian Federation:** Commenting on specific aspects of ongoing legislative work in the area of TRIPS and in response to specific enquiries by members, the representative of the Russian Federation provided the following information.
123.	**285-287**	**Russian Federation:** **The federal executive body, competent in the field of customs legislation (the State Customs Committee – SCC), keeps for purposes of the customs supervision the state Register of the objects of intellectual property rights.** **Objects of the intellectual property shall be included in the Register upon the application of the right holder (or his trustee) when the right holder believes that his rights for the object of the intellectual property are infringed or may be infringed. The time period of the protection of the right holder's rights by the customs authorities shall not exceed 2 years (it may be prolonged by the SCC); the general time period of protection of intellectual property shall not exceed the time period of the validity of the ownership right.** **If upon the customs registration or the customs control of goods which contain the objects of intellectual property and are included in the Register, the customs authority detects that the goods are counterfeited, the goods are put to the customs warehouse and their release is suspended (to up to 10 days with the possibility of prolonging the suspension for 20 days). This complies with the WTO Agreement on TRIPS.** **The Draft provides the legal grounds for the revoking of the decision to suspend the release of the goods with their subsequent registration and release.** **The customs authorities shall have the right to suspend the release of goods which contain objects of intellectual property not included in the Register when the goods are identified as counterfeited without the application of the right holder made under the established procedure. In this case the customs authorities shall have the right to request the right holder any information which may be useful to confirm the counterfeited nature of the goods. If in this case the release of the goods is suspended (for not more than 10 working days with prolonging to another 10 days upon the right holder's application) the customs authorities shall immediately inform the right holder or the declarer thereupon.** **No remedies related to the protection of intellectual property rights shall be implemented by the customs authorities in relation to goods which contain objects of intellectual property and are transported across the border by natural persons or are sent by international mail service, provided that such goods shall not be used for making profit and are imported/exported from the territory of the Russian Federation with avoidance of all duties and taxes.** **Damages inflicted by the customs authorities to any person as a result of the suspension of the release of the goods not included in the Register shall be reimbursed only if the related actions of the customs authority or its officials are recognized as intended to the illegal infliction of damage or are the result of negligence. Other cases shall not entail reimbursement for damage by the customs authorities.**
124.	**285-287**	**Russian Federation:** **In order to bring the Russian legislation on copyright and related rights in conformity with the WTO Agreement on TRIPS the draft federal law "On Amending the Law of the Russian Federation "On Copyright and Related Rights" submitted to the State Duma envisaged:** • **introduction of retroactive protection of copyright in order to comply with paragraph 1 of Article 9 of the WTO Agreement on TRIPS and paragraph 1 of Article 18 of the Bern Convention for the Protection of Literary and Artistic Works;** • **granting of the exclusive rental right in regard to the originals in order to comply with Article 11 of the WTO Agreement on TRIPS;**

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		• **introduction of retroactive protection of related rights in order to comply with paragraph 6 of Article 14 of the WTO Agreement on TRIPS.** **Refer to WT/ACC/RUS/29 – paragraphs (a), (b), (c), (d), (d), (e).** **Remedies against infringement of intellectual property rights were introduced by Federal law No.166-FZ of 11 December 2002 "On Amending the Law "On Trademarks, Service Marks and Appellations of Origin", namely, the possibility of destruction of counterfeited products, their transfer to the State or to the right holder (as a means of reimbursement), the possibility compensation of losses instead of reimbursement for inflicted damages.** **The representative of the Russian Federation said, that the national system of protection of intellectual property rights complied with the basic international standards adopted in this field, including the provisions of the WTO Agreement on TRIPS. The Constitution of the Russian Federation determined the basic political trends in the field of intellectual property in Russia. Article 44, paragraph 1 of the Constitution of the Russian Federation guaranteed freedom of literary, artistic, scientific, technical and other types of creative and educational activity and provided their legal protection. The whole system of the Russian legislation in force supported the implementation of that constitutional right. A number of international agreements signed by the Russian Federation constituted an integral part of this system. Pursuant to Article 1 of the Federal law No.96-FZ of 24 July 2002 "On Enforcement of the Arbitration Procedure Code of the Russian Federation" the new Arbitration Procedure Code No. 95-FZ of 24 July 2002 on "Arbitration Procedure Code" entered into force on 1 September 2002.** **The provisions of the Russian legislation relating to the protection of trademarks and service marks conformed to the provisions of the Paris Convention for the Protection of Industrial Property and the relevant provisions of the WTO Agreement on TRIPS, including those which governed protection of well-known marks with respect to non-homogeneous goods. Those provisions were included in the Federal law No. 166-FZ of 11 December 2002 "On Amending the Law "On Trademarks, Service Marks and Appellations of Origin". The updated Russian legislation in force allowed for protection of well-known trademarks. The legal basis was Articles 2, 7, 19.1, 19.2 of the Law No. 3520-1 of 23 September 1992 "On Trademarks, Service Marks and Appellations of Origin" as well as the Regulation No.38 of 17 March 2000 "On Establishing the Rules of Recognizing a Well-Known Trademark in the Russian Federation". The Law included the definition of a well-known trade-mark which was based on the provisions of the updated law and totally conformed to the Joint Recommendation on the Provisions of the Protection for Well-Known Trade Marks of the Paris Union Assembly and General Assembly of WIPO: "a well-known trade mark and service mark (further referred to as "trademark") in the Russian Federation could be recognized as the trade mark which was protected on the territory of the Russian Federation under state registration, the trade mark which was protected on the territory of the Russian Federation without registration in accordance with the international treaty to which the Russian Federation was a party, and an indication which was used as a trade mark but had no legal protection on the territory of the Russian Federation, if such trade marks or indications had become well-known among respective consumers in relation to products by a certain manufacturer as a result of their frequent use in the Russian Federation".** **The legislation did not require the registration of well-known trademarks. Nevertheless, any trademark claiming to be well-known should be recognized as such by a competent authority, i.e. the Higher Patent Chamber of Rospatent. This procedure for granting protection was fully consistent with the Paris Convention. The provisions of criminal and civil legislation applicable to "ordinary" trademarks were also applicable to well-known trademarks. Among the remedies taken were recognition of the right, prevention of infringement, compensation of losses, criminal and administrative liability.** **Prior to 1992, geographical indications in the Russian Federation were protected mostly as a result of considering any false**

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		geographical indications a form of unfair competition or a violation of consumer rights (this was done by antimonopoly agencies or courts, respectively). In addition to this, since 1992 one important category of geographical indications - appellations of origin - was accorded special protection through their state registration under the procedure set forth in the Law No. 3520-1 of 23 September 1992 "On Trademarks, Service Marks and Appellations of Origin". Protection of such types of geographical indications was envisaged by Article 6 of the foregoing law which prohibited the registration of trademarks containing indications of appellations of origin of goods as well as trademarks containing false indications or indications which might mislead the customer as to the manufacturer of goods. Protection of appellation of origin was valid for both food and manufactured goods. Pursuant to Article 47 of the same law, the right to register an appellation of origin in the Russian Federation was granted to individuals and legal entities from those states which provided similar rights to Russian individuals and legal entities. **Overall, the provisions ensuring the protection of geographical indications in the Russian Federation complied with the Paris Convention for the Protection of Industrial Property and the relevant provisions of the WTO Agreement on TRIPS. The amendments made to the Law of the Russian Federation No.3520-1 of 23 September 1992 "On Trademarks, Service Marks and Appellations of Origin" were consistent with those provisions of the WTO Agreement on TRIPS which related to additional protection of geographical indications of wines and spirits and spread on the geographical indications protected by the WTO members. Pursuant to an international treaty to which the Russian Federation was a party, it was prohibited in the Russian Federation to register as trade marks those indications which were protected in one of the member-states of the international treaty as indications which indicated wines and spirits as coming from its territory (produced within the boundaries of a region or locality of this state) and possessing special quality, reputation and other characteristics which were mainly determined by their origin, in case the trade mark was applied for the indication of wines and spirits which did not come from the territory of that region or locality.** **Considering the specific character of appellations of origin of goods the national treatment envisaged by the Law of the Russian Federation No.3520-1 of 23 September 1992 "On Trademarks, Service Marks and Appellations of Origin" was restricted by the reciprocity principle. According to that principle, the right for the registration in the Russian Federation of the appellation of origin of goods was granted to legal entities and individuals from those states which provided similar rights to Russian individuals and legal entities. The procedure for the application for registration of appellations of origin by foreigners was similar to a number of other countries where registration systems were implemented.** **Pursuant to the provisions of the laws mentioned above (the Civil Code of the Russian Federation and the Law of the Russian Federation No.948-1 of 22 March 1991 “On Competition and on Restriction of the Monopoly Activity on the Commodity Markets”) the information related to the production that had yet to be patented could be prevented from being disclosed.** **To prevent unfair competition the laws mentioned above determined the terms of protection of confidential information, established liability for acts of unfair competition, terms and procedure for its application.** **The updated Russian legislation established civil, administrative and criminal liability for unauthorized use of those appellations of origin of goods which were protected in the Russian Federation. Among the remedies implemented against unauthorized use of appellations of origin were: prevention of unauthorized use, reimbursement, publication of the verdict in order to restore the defendant’s reputation, removal of labels, packages with the appellations of origin which were unlawfully affixed to counterfeited goods or indications which were similar to the original ones to the extent of their confusion with the original ones, destruction of counterfeited goods, labels, packages, possibility of compensation instead of reimbursement for inflicted damages.** **The Code of the Russian Federation on Administrative Offences (Articles 7.12, 7.28) determined administrative liability for**

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		infringement of copyright and related rights, invention and patent rights, violation of the established procedure for patenting of objects of industrial property in foreign states. **This legislation came into force just several months ago and therefore had not yet been fully implemented.** **Discussion of the issues on legislative settlement of relations in media optical disc industry was being done by the Government Committee on Combating Infringements in the Sphere of Intellectual Property.** **The new Arbitration Procedure Code of the Russian Federation which came into force on 1 September 2002 introduced new preliminary safeguard measures applied prior to submitting a statement of claim (Article 99). The safeguards comply with the provisions of Article 44 "Injunctions" of the WTO Agreement on TRIPS. Pursuant to Article 99 of the Arbitration Procedure Code of the Russian Federation, the arbitration court, upon a statement of claim submitted by an organization or an individual, has the right to take preliminary safeguard measures aimed at securing the claimant's property interests prior to suing.** **- Envisaged by the draft Customs Code expansion of the scope of competence of customs authorities in relation to the protection of intellectual property upon customs registration and customs control is not to be discussed in the Committee of State Duma on Budget and Taxes.** **The draft Customs Code includes a new section which is related to protection of intellectual rights and contains an effective regulation of the relevant issues. After the goods have been detained the customs authorities have 10 working days for the inspection of all the goods detained. Special attention is granted to the goods which have been indicated by the right holder. The draft code envisages the possibility of selecting samples and models of goods for subsequent testing. This provision relates to those goods whose release has been suspended upon demand of the owner of the intellectual property rights for their testing. This period may be prolonged to up to 20 working days or 31 calendar days. In case of detection of infringement of intellectual property rights within this period the customs authority makes a record of the administrative offence. If a crime is detected the customs authority hands over the relevant documents to the empowered authority of the Ministry of Internal Affairs and the procurator's office. For the past two years the customs authorities have already detected 700 cases when the goods which contained objects of intellectual property and were submitted for customs registration infringed the owners' intellectual property rights. There were instituted about 100 cases related to violation of customs rules. The information concerning the crimes envisaged by Articles 146, 180 of the Criminal Code of the Russian Federation, there were instituted 15 criminal and 20 administrative proceedings as a result. In 2002 the activity of the customs authorities on protection of intellectual property was taken under control. As a result, the customs authorities detected over 200 incidents of transportation of counterfeited goods which were subject to certain measures under the current legislation.** **The draft law on amending Article 146 of the Criminal Code of the Russian Federation was passed in the third reading by the State Duma on March 7, 2003. The draft law envisages strengthening criminal liability for illegal use of objects of copyright and related rights as well for purchase, storage, transportation of counterfeited works of art or phonograms for the purpose of their sale in large quantities. The draft law strengthens the penalty to up to 5 years of imprisonment with or without confiscation of property. No other and further amendments to the Criminal Code of the Russian Federation which strengthen criminal liability for crimes related to intellectual property have been or are expected to be introduced.** **The main objectives of the Ministry of Internal Affairs of Russia are toughening the combat against infringements and improvement of the legislation in the sphere of protection of intellectual property. The criminal statistics, which indicates steady increase in the number of disclosed crimes, shows the Ministry's concern.** **Over 2000 crimes were disclosed in 2000, over 2500 crimes in 2001, 1500 crimes were disclosed for the first six months of 2002. The disclosed crimes included swindling, smuggling, legalizing of money means. As a result of the combating activities against distribution of counterfeited and fake production initiated by the Ministry of Internal Affairs in 2002 over 30 000 enterprises were inspected, the illegal activity of 350 enterprises was suspended. 2800 criminal cases were instituted against the organizers of the crimes, 7234 people were brought to liability under the Code of the Russian Federation of Administrative Offences. The number of counterfeited goods confiscated for the past year amounted to about 276, 7 million roubles, the number of confiscated equipment and articles of material value amounted to 50, 6 million roubles.**

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		The Patent law of the Russian Federation No.3517-1 of 23 September 1992 (edited 07 February 2003) establishes civil and legal liability for illegal use of patents, useful models and inventions. **<u>Administrative Liability</u>** **Pursuant to the provisions of the Code of the Russian Federations on Administrative Offences illegal use of the invention, useful model or industrial design, disclosure of the essentials of the invention, useful model or industrial design without the inventor's or the claimant's consent prior to the official publication of this information shall be penalized by exacting an administrative fine.** **<u>Criminal Liability</u>** **Pursuant to Article 147 of the Criminal Code of the Russian Federation "Infringement of the Invention and Patent Rights" illegal use of an invention, useful model or industrial design, disclosure of the essentials of the invention, useful model or industrial design without the inventor's or the claimant's consent prior to the official publication of this information, misappropriation of authorship or coercion to co-authorship are regarded as a criminal offence and are punished by fine or up to 5 years of imprisonment, provided that these actions have inflicted serious damage.** **The Law of the Russian Federation No.3520-1 (edited on 11 December 2002) "On Trademarks, Service Marks and Appellations of Origin of Goods" establishes civil, administrative and criminal liability for illegal use of a trademark and appellations of origin of goods.** **<u>Civil Liability</u>** **In addition to discontinuance of infringement or reimbursement for the inflicted damage, protection of civil rights against illegal use of a trademark is carried out by means of:** **- publication of the judicial decision in order to restore reputation of the aggrieved party;** **- removal at the offender's expense of labels, packages with the appellations of origin which were unlawfully affixed to counterfeited goods or indications which were similar to the original ones to the extent of their confusion with the original ones, destruction at the offender's expense of counterfeited goods, labels, packages, when it is impossible to remove the unlawfully affixed trademark or the indication similar to it to the extent of their confusion, except cases when it is impossible to remove the unlawfully affixed trademark or the indication similar to it to the extent of their confusion, except cases when the counterfeited goods, labels, packages are added to the revenue of the state or when they are handed over in possession of the right holder upon his application as a means of reimbursement for the inflicted damage or for their further destruction (No.166-FZ of 11 December 2002).** **The person who illegally uses a registered appellation of origin of goods or an indication which is similar to this appellation of origin is bound upon demand of the owner of the certificate for the use of the appellation of origin, the government authority, a procurator, or a non-government organization to:** **- cease to use this appellation of origin or the indication similar to it and also to reimburse for the inflicted damage under the civil legislation;** **- publish the judicial decision in order to restore the reputation of the aggrieved party;** **- remove the labels, packages with the appellations of origin which were unlawfully affixed to counterfeited goods or indications which were similar to the original ones to the extent of their confusion with the original ones, or destroy counterfeited goods, labels, packages, when it is impossible to remove the unlawfully affixed appellation of origin or the indication similar to it to the extent of their confusion.** **<u>Administrative Liability</u>** **Pursuant to the provisions of the Code of the Russian Federations on Administrative Offences illegal use of another person's trademark, service mark, appellation of origin or similar indications for homogeneous goods is punished by exacting an administrative fine with confiscation of objects containing illegal reproduction of the trademark, service mark or appellation of origin of goods;**

No.	Paragraph No.	Comment
		<u>Criminal Liability</u> **Illegal use of another person's trademark, service mark, appellation of origin or similar indications for homogeneous goods when committed repeatedly and having inflicted serious damage is regarded as a criminal offence which is punished by exacting a fine or up to 5 years of imprisonment (Article 180 of the Criminal Code of the Russian Federation).** **- Refer to the relevant section of the report to find the requested information.** **- The federal executive authorities whose competence spreads on protection of intellectual property rights are Ministry of Antimonopoly Policy of the Russian Federation, State Customs Committee of the Russian Federation, and Ministry of Internal Affairs of the Russian Federation. The provisions of the Law of the RSFSR "On Competition and Restrictions on Monopoly Activity on Commodity Markets" Ministry of Antimonopoly Policy of the Russian Federation and its territorial divisions consider cases of violation of the antimonopoly legislation related to illegal use of results of intellectual activity and the equated to them means of individualization of a juridical person, production, works, services since they are regarded as unfair competition. The antimonopoly authority has the right to order the managing subjects to stop the violation of the antimonopoly legislation and eliminate the consequences of such violation.** **Pursuant to Article 19.5 of the Code of the Russian Federation on Administrative Offences, failure by the managing subject to carry out such order within the stated period leads to exacting an administrative fine.** **The key objectives of the Ministry of Internal Affairs of the Russian Federation in the field of the turnover of object of intellectual property rights are combating the related offences and crimes and improving the legislation related to protection of the owners of intellectual property. For this purpose the Headquarters on Combating Economic Crimes of the Ministry of Internal Affairs of the Russian Federation and the regional branches established special divisions whose function is to combat crimes related to intellectual property. If as a result of the investigation the crime is detected and a criminal record is started, the related information is passed to the procurator's office or the internal affairs authorities.** **One of the main functions of the customs authorities is cutting off the illegal turnover of goods containing objects of intellectual property across the border of the Russian Federation. In case of detection of the offence by the customs authorities, a record illustrating the administrative offence shall be started. In case of the detection of a crime the information related to it shall be passed to the procurator's office or the internal affairs authorities.** **The draft Customs Code includes a special section which is related to protection of intellectual rights by the customs authorities and concerns regulation the relations in the field of protection of intellectual property by the customs authorities when executing export-import related operations of the relevant issues (border measures). In accordance with the stated provisions the customs authorities are empowered with additional rights related to protection of intellectual property rights, for example, the right to suspend the release of goods which possess the characteristics of counterfeited ones.** **The draft Customs Code includes a new section which is related to protection of intellectual rights and contains an effective regulation of the relevant issues. After the goods have been detained the customs authorities have 10 working days for the inspection of all the goods detained. Special attention is granted to the goods which have been indicated by the right holder. The draft code envisages the possibility of selecting samples and models of goods for subsequent testing. This provision relates to those goods whose release has been suspended upon demand of the owner of the intellectual property rights for their testing. This period may be prolonged to up to 20 working days or 31 calendar days.** **In case of detection of infringement of intellectual property rights within this period the customs authority institutes a case of the administrative offence and makes a record of the administrative offence. The record id then passed to the court.** **If a crime is detected the customs authority pass the relevant information to the empowered authority of the Ministry of Internal Affairs and**

No.	Paragraph No.	Comment
		the procurator's office. **The civil and legal means of protection of right holders of the intellectual property are stipulated by the following laws: the Patent Law, the Law of the Russian Federation "On Trademarks, Service Marks and Appellations of Origin of Goods", the Law of the Russian Federation "On Copyright and Related Rights", the Law of the Russian Federation "On the Legal Protection of Topologies and Integrated Microcircuits", the Law of the Russian Federation "On the Legal Protection of Computer Programmes and Databases".** **The Patent law envisages certain civil and legal remedies for the protection of invention, useful model or industrial designs rights. Thus, the right holder has the right to require discontinuance of the patent infringement, reimbursement for the inflicted damage by a person guilty of violation of rights in accordance with the civil legislation; publication of the judicial decision to restore his business reputation; take other statutory measures envisaged by the legislation of the Russian Federation.** **As to their competence the courts shall consider disputes related to the invention, useful model or industrial design authorship; identification of the patent holder; infringement of the exclusive right for the invention, useful model, industrial design; signing and executing the treaties on passing the exclusive right (patent concession) and licensing treaties on the use of the invention, useful model, industrial design; the right of early use; the right of after use; the amount, term and procedure for paying reward to the author of the invention, useful model or industrial design in accordance with the Law' the amount, term and procedure for paying the compensations envisaged by the current Law; other disputes related to protection of patent rights.** **Disputes arising as a result of the use of objects protected by the Patent Law as well as of the refusal in the issuance of the patent may be considered by appealing to the Chamber on Patent Disputes of the federal executive body (Rospatent).** **<u>The Law "On Trademarks, Service Marks and Appellations of Origin of Goods</u> envisages legal and administrative ways of protection of rights. Disputes concerning the implementation oh the Law are considered in competent courts following the procedure established by the legislation of the Russian Federation. The disputes concern:** **- violation of the exclusive right for a trademark;** **- discontinuance of legal protection of a collective mark ahead of schedule as a result of its use in relation to goods which do not possess like qualitative or other like characteristics;** **- signing and execution of a licensing treaty and a treaty on making over the exclusive rights for a trademark (treaty on concession of a trademark)** **- illegal use of an appellation of origin of goods.** **In addition to requirements for discontinuance of the infringement or reimbursement of inflicted damage, protection of civil rights against illegal use of a trademark shall be also effected by means of:** **- publication of a judicial decision to restore the business reputation of the aggrieved party;** **- removal at the offender's expense of labels, packages with the appellations of origin which were unlawfully affixed to counterfeited goods or indications which were similar to the original ones to the extent of their confusion with the original ones, destruction at the offender's expense of counterfeited goods, labels, packages, when it is impossible to remove the unlawfully affixed trademark or the indication similar to it to the extent of their confusion, except cases when the counterfeited goods, labels, packages are added to the revenue of the state or when they are handed over in possession of the right holder upon his application as a means of reimbursement of the inflicted damage or for their further destruction.** **The person who illegally uses the registered appellation of origin of goods or the indication similar to it, shall, upon demand of the owner of the**

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		certificate for the right to use the appellation of origin of goods, a government authority, or a non-governmental organization, or a procurator: **- cease to use it and reimburse the inflicted damage under the Civil Code of the Russian Federation ;** **- publish the judicial decision to restore the business reputation of the aggrieved party;** **- remove the labels, packages with the appellations of origin which were unlawfully affixed to counterfeited goods or indications which were similar to the original ones to the extent of their confusion with the original ones, or destroy counterfeited goods, labels, packages, when it is impossible to remove the unlawfully affixed appellation of origin or the indication similar to it to the extent of their confusion.** **The right holder or the owner of the right to use the appellation of origin of goods shall have the right to demand the person illegally using the trademark or the appellation of origin of goods a compensation established by the court and amounted to between 1000 and 50 000 of the minimal wages set by the relevant federal law. The demand shall be claimed as substitution for the reimbursement of the inflicted damage.** **If the claimant does not agree to the decision taken as a result of the formal expertise of the statement of claim; refusal to consider the statement of claim; or as a result of the expertise of the indication claimed; or the recognition of the claim as recalled the claimant may also appeal to the Chamber on Patent Disputes in the course of 3 months since the receipt of the respective decision.** **<u>The Law "On Copyright and related rights"</u> establishes the following civil, legal and other measures of protection of copyrights and related rights":** **The holders of exclusive copyrights and related rights may demand that the violator thereof:** **- recognize such rights;** **- restore such situation as existed before the violation and discontinue actions violating their rights or posing a threat of such violation;** **- reimburse the losses, including lost profit;** **- recover the profits received by the violator as a result of the violation of copyrights and related rights instead of reimbursement of losses;** **- pay compensation amounting to between 10 and 50,000 minimum monthly wages established by Russian legislation, the amount of which shall be determined by a court of law or a court of arbitration, instead of reimbursement of losses or recovering profit; and** **- take other statutory measures so that rights will be upheld.** **Holders of the exclusive copyrights and related rights may, under the established procedure, seek protection in the competent court of law, the arbitration court, the inquiry authority, preliminary investigation authorities.** **Pursuant to <u>the Law "On the Legal Protection of Topologies and Integrated Microcircuits</u>" the rights may be protected by means of:** **- the recognition of his rights;** **- the restoration of the situation existing before the infringement of his rights and the discontinuance of the actions infringing his right or which create a threat of their infringement;** **- the reimbursement of the inflicted damage by a person guilty of violation of rights in accordance with the civil legislation;** **- other measures stipulated for by the legislation and related to the protection of their rights.** **The author or other right holder may, under the established procedure, seek the protection of their rights in a court of law or an arbitration court.** **In accordance with <u>the Law "On the Legal Protection of Computer Programmes and Databases</u>" in order to protect their intellectual rights the author of the computer programme or the database and other right holders shall have the right to demand:**

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- **the recognition of his rights;**
- **the restoration of the situation existing before the infringement of his rights and the discontinuance of the actions infringing his right or which create a threat of their infringement;**
- **the reimbursement of the inflicted damage by a person guilty of violation of rights in accordance with the civil legislation;**
- **other measures stipulated for by the legislation and related to the protection of their rights.**

The author or other right holder may, under the established procedure, seek the protection of their rights in a court of law or an arbitration court.

Law Enforcement

The information on enforcement of legislation in force on intellectual property is based on statistical data summarizing the results of the activity of the relevant state executive and judicial authorities in 2000 and during the first half of 2002.

Patents on inventions

	2000	2001	2002	2002 to 2001 (%)
Applications for patents filed with Rospatent directly	28688	29989	29225	97,45
including those filed by national applicants	23377	24777	23712	95,7
including those filed by foreign applicants	5311	5212	5513	105,77
Granted patents on inventions, total	17592	16292	18114	111,18
to national patent holders	14444	13779	15140	109,87
to foreign patent holders	3148	2513	2974	118,34
Valid patents on inventions by the end of the year	144325	149684	102568	68,5

Industrial designs

	2000	2001	2002	2002 TO 2001 (%)
Applications for industrial designs filed	2290	2544	2344	92,13
By national applicants	1918	2106	1799	85,42
By foreign applicants	372	438	545	124,42
Number of patents granted for industrial designs	1626	1507	1920	126,42
Number of valid patents for industrial designs by the end of the year	8573	9007	10686	118,64

Trademarks and service marks

	2000	2001	2002	2001 to 2000 (%)
Filed applications for TMs and service marks, total	42809	53124	43258	81,4
By national applicants	30338	39801	29279	73,6
By foreign applicants	12471	13323	13979	1,06

No.	Paragraph No.	Comment

international registration	**8043**	**8815**	**8088**	**0,92**
Trademarks and service marks registered, total	**21725**	**16920**	**34818**	**205,7**
national applicants	**11421**	**7657**	**21776**	**284,4**
foreign applicants	**10304**	**9263**	**13042**	**140,8**
registrations valid by the end of the year	**130674**	**119283**	**145470**	**121,9**

***taking no account of international applications**

669 appeals concerning the objects of industrial property were filed to the Chamber of Appeal of Rospatent in 2000, there were filed 867 appeals in 2001 and 1579 appeals in 2002. As a result 117 appeals were satisfied in 2000, 221 appeals in 2001 and 357 appeals in 2002.

The Higher Patent Chamber of Rospatent received 554 claims in 2000, 693 claims in 2001 and 599 claims in 2002 (429 of which concerned non-use of trademarks for 5 years (292 claims of which were fully or partly satisfied); 7 claims requested the recognition of trademarks well-known in the Russian Federation (3 of them were satisfied)).

<u>Civil proceedings</u>

In 1997 courts of general jurisdiction determined 565 civil proceedings on protection of intellectual property, including:

- **resolutions made in 347 cases (273 cases sustained exacting the amount of 4,580,535,000 Rubles (hereinafter – non-denominated Rubles) including moral damage awards).**
- **revoked - 93 cases;**
- **dismissed -109 cases;**
- **filed with other courts - 16 cases.**

During the first half of 1998 courts determined 205 proceedings, including:

- **resolutions made in 148 cases (104 cases sustained exacting the amount of 2,262,487,000 Rubles including moral damage awards);**
- **revoked - 31 cases;**
- **dismissed - 20 cases;**
- **filed with other courts - 6 cases.**

<u>Arbitration proceedings</u>

The application of legislation on intellectual property by arbitration courts in the Russian Federations is illustrated by the following:

Disputes on protection of intellectual property	**1997**	**6 months of 1998**
Considered	**121**	**91**
Total amount of claims, (Rubles)	**42,534,000**	**15,552,000**
Number of claims sustained	**69**	**46**
to the amount (Rubles)	**7,512,000**	**525,000**
Appealed in court	**21**	**20**
including overruled	**8**	**2**

No.	Paragraph No.	Comment
		Note: The disputes are related to protection of trademarks, registration of trademarks, application of the law on copyright and related rights, patent law and other laws on protection of intellectual property. **<u>Administrative proceedings</u>** **In 1997 courts have considered under Article 150-4 of the RSFSR Administrative Offence Code (illegal use of copies of works or phonograms) administrative lawsuits against 883 individuals, administrative penalties were incurred on 743 individuals, including 742 fined and 1 warned. 329 decisions on seizure of infringing goods were made.** **In 1997 the Russian State Anti-Monopoly Committee brought 65 actions on unfair competition with respect to infringement of exclusive rights. On results of investigation 43 orders on termination of illegal actions were issued.** **During the first half of 1998 the State Anti-Monopoly Committee brought 35 actions and 23 orders were issued.** **<u>Criminal proceedings</u>** **The Ministry of Internal Affairs mostly concentrated on revealing and suppressing crime, for which the liability is stipulated in Articles 146, 147 and 180 of the Criminal Code of the Russian Federation. Special attention was paid to revealing organized criminal groups, engaged in production and distribution of infringing goods.** **Thus, in 1997 the militia revealed 293 infringements of copyright and related rights implying criminal liability, including: 91 completed with investigation, 30 filed with courts and 50 terminated.** **During the first half of 1998 the militia revealed 425 crimes under Article 146, 16 crimes under Article 147, and 267 crimes under Article 180 of the Criminal Code of the Russian Federation.** **Infringing goods valued at over 400 million Rubles were seized by the militia. Criminal actions were brought against 80 individuals.** **Statistical data on court proceedings in 1997 show that no sentences were imposed under Article 146 of the Criminal Code of the Russian Federation. Five individuals were convicted for infringement of inventors' and patent rights (Article 147 of the Criminal Code of the Russian Federation), 73 individuals were convicted for illegal use of trademarks under part 1 of Article 180 of the Criminal Code of the Russian Federation and 3 individuals - under part 2 of Article 180 of the Criminal Code of the Russian Federation).**
125.	**288**	**- Copyright and Related Rights**
126.	**288**	**<u>Russian Federation:</u>** Overall, the provisions of the Russian legislation on copyright (including those relating to protection of computer programmes and databases) were in conformity with the provisions of the Bern Convention for the Protection of Literary and Artistic Works (including Article 6 bis) and the relevant provisions of the WTO Agreement on TRIPS. In particular, the Russian legislation protected not only personal non-proprietary rights of authors, such as authorship right, right to name, publication right, right to protect reputation of the author, but also property rights of authors which could be inherited. Thus copyrights were valid during the life of the author and during 50 years after his/her death. In certain cases stipulated by the law, the term for

No.	Paragraph No.	Comment
		protection was calculated on the basis of other dates (for instance from the date of latest death of a co-author where a work had been created in co-authorship). The draft law under consideration by the Duma intended to extend the term for protection to 70 years after the death of the author. At the same time, further to the declaration made by the Government of the Russian Federation when joining the Bern Convention, the provisions of the latter did not applied to literary and artistic works which were of public property when the Convention came into force for the Russian Federation. In accordance with Article 28 of Federal Law No. 3531-1-FZ of 9 July 1993 "On Copyright and Related Rights", works for which the term of copyright had elapsed as well as works which had never been protected in the Russian Federation were considered to have become public property. The Russian authorities intended to further amend this law so as to bring it in full conformity with the respective requirements of the Bern Convention and WTO Agreement on TRIPS.
127.	288	please update the information on the status of the copyright law amendments pending before the Duma, with particular attention to the following issues: (1) protection for pre-existing works and sound recordings (minimum of 50 years) as required by TRIPS and the Berne Convention; (2) copyright term extension (life of the author plus 70 years); and (3) implementation of the WIPO "Internet" treaties, including the "making available" right, technological protection measures and rights management information proscriptions. Information should also be provided reflecting the statements of this delegation on the need for an optical media law to address piracy in this area, and include Russia's substantive response on the ODM piracy problem and Russia's views on ODM licensing. We would also appreciate an indication that Russia is prepared to implement the WIPO "Internet" treaties and the "making available" right.
128.	**289**	**- Trademarks**
129.	**289**	**<u>Russian Federation:</u>** Overall, the provisions of the Russian legislation relating to the protection of trademarks and service marks were in conformity with the provisions of the Paris Convention for the Protection of Industrial Property and the relevant provisions of the WTO Agreement on TRIPS, except for those which governed well-known marks protection with respect to non-homogeneous goods. Additions reflecting these provisions of the WTO Agreement on TRIPS were contained in the draft federal law submitted to the Duma "On amending the Federal Law "On Trademarks, Service Marks and Appellations of Origin". The Russian legislation in force allowed for protection of well-known trademarks. The legal basis was Articles 2 and 7 of the Federal law No. 3520-FZ of 23 September 1992 "On Trademarks, Service Marks and Appellations of Origin" as well as the Regulation on recognition trademark as well-known in the Russian Federation. The legislation did not require the registration of well-known trademarks. Nevertheless, any trademark pretending to be well-known should be recognized as such by a competent authority, i.e. the Higher Patent Chamber of Rospatent. Such a procedure of granting protection was fully consistent with Paris Convention. The provisions of criminal and civil legislation applicable to "ordinary" trademarks were also applicable to well-known trademarks. Among the remedies there were the recognition of the right, prevention of the violation, compensation of losses, criminal and administrative liability.

No.	Paragraph No.	Comment
130.	**290-291**	**- Geographical Indications**
131.	**290**	**Russian Federation:** Prior to 1992 geographical indications in the Russian Federation were protected mostly by considering any false geographical indications as a form of unfair competition or a violation of consumer rights (this was done by antitrust -antimonopoly- agencies or courts respectively). Since 1992 one important category of geographical indications - appellations of origin - was accorded special protection through their State registration in line with the procedure set forth in the Federal Law No. 3520-FZ of 23 September 1992 "On Trademarks, Service Marks and Appellations of Origin". Protection for such types of geographical indications was provided for under Article 6 of the said law which prohibited to register trademarks containing indications of the place of production of goods as well as trademarks containing false indications or indications which might mislead the customer as to the identity of the producer of goods. Protection of appellation of origin existed for all kind of goods – food and manufactured goods alike. According to Article 47 of the same law, the right to register an appellation of origin in the Russian Federation was granted to persons and legal entities of those states that provided similar rights to Russian persons and legal entities.
132.	**291**	**Russian Federation:** On the whole, the provisions in accordance to which geographical indications were protected in the Russian Federation were in conformity with the Paris Convention for the Protection of Industrial Property and the relevant provisions of the WTO Agreement on TRIPS. The draft law "On amendments to Federal Law No. 3520-FZ "On Trademarks, Service Marks and Appellations of Origin" would allow protection not only for appellation of goods duly registered in the Russian Federation but for geographical indication of wines and spirits as well, in line with the provisions of Article 23.3 of the WTO Agreement on TRIPS. Such additional protection was not maintained for any other goods.
133.	290	The text reflects the continuing concern about the reciprocity requirement for the right to register an appellation of origin and need response based on the new legislation “On Trademarks, Service Marks and Appellations of Origin.” Has this requirement been removed? If not, please indicate what Russia’s plans are to do so.
134.	**292**	**- Inventions and Industrial Designs**
135.	**292**	**Russian Federation:** On the whole, the provisions of Federal Law No. 3517-FZ of 23 September 1992 "Patent Law of the Russian Federation on the protection of inventions and industrial designs" were in conformity with the Paris Convention and the relevant provisions of the WTO Agreement on TRIPS. The amendments to the Patent Law of the Russian Federation (Federal Law No. 22 dated February 2003) reflected the provisions of Article 31 of the WTO Agreement on TRIPS by extending the scope of currently existing provisions on "compulsory licensing". Under this law, a patent might not be obtained in relation to the following: plant varieties, animal breeds, solutions violating social interests or humanitarian and moral principles. This amendment corresponded to Article 27.3 of the WTO Agreement on TRIPS. Under the amended Patent Law in force, the validity term of patents for all kind of inventions was 20 years, starting from the date when the application was submitted. This term corresponded to the relevant provisions of Article 33 of the WTO Agreement on TRIPS. Moreover, the amended law provided for the possibility of extending such term for pharmaceutical products (medicines), pesticides and agricultural chemicals, if their use had been based on a consent of an authorized state body. In these cases, the general 20 year term might be extended for up to 5 years.

No.	Paragraph No.	Comment
136.	**293**	**- Plant Variety and Animal Breed Protection**
137.	**293**	**Russian Federation:** Plant varieties and animal breeds were protected in accordance with Federal Law No. 5605-1 FZ of 6 August 1993 "On Selection Attainments". The provisions of this Law, in the Russian Federation's view, were in conformity with the WTO Agreement on TRIPS and the UPOV Convention (International Union for Protection of New Varieties of Plants) to which the Russian Federation became a member in 1998.
138.	**294**	**- Layout Designs of Integrated Circuits**
139.	**294**	**Russian Federation:** Layout designs of integrated circuits were protected in accordance with Federal Law No. 3526-1 of 23 September 1992 "On Legal Protection of Layout Designs of Integrated Circuits". In general, the provisions of this Law were in conformity with the provisions of the Treaty on Intellectual Property in Respect of Integrated Circuits (Washington Treaty) despite the fact, that the Russian Federation is not a party to this agreement. In addition the Federal law No.82-FZ of 9 July 2002 “On Amending the Law on Legal Protection of Topologies and Integrated Designs” contains provisions aimed at bringing in compliance with the WTO Agreement which supplement the Washington Treaty. In addition, the Federal Law No. 82-FZ of 9 July 2002 "On amendments to the Law "On Legal Protection of Layout Designs of Integrated Circuits" contained provisions aimed at satisfying the requirements of the WTO Agreement which were additional to those of the Washington Treaty.
140.	**295**	**- Requirements of undisclosed information, including trade secrets and test data**
141.	**295**	**Russian Federation:** Protection of undisclosed information, as in Section 7 of the WTO Agreement on TRIPS, was ensured in the Russian legislation by virtue of Article 139 of the Civil Code. In particular, this article stipulated legal protection of undisclosed information which constituted official or commercial secrets. In addition, the acquisition, use, or disclosure of scientific, technical, production, or commercial information, including commercial secrets, without the owner's consent were not permitted by virtue of Article 10 of Federal Law No. 948-1 of 23 March 1991 "On Competition and Restriction of Monopoly Activity on Commodity Markets". The provisions of the above-mentioned laws prohibited the use of undisclosed information without the consent of the right holder. All these provisions were applicable to the protection of confidential (undisclosed) information related to pharmaceutical and argochemical products containing new chemical substances. Following the opinion of the Ministry of Health of the Russian Federation the term of six years was sufficient to protect undisclosed information obtained during clinical tests of new medicines. In the event that protection of undisclosed information could endanger the human life and health such information could be published before the expire of this term.
142.	**295**	**- Requirements on undisclosed information, including trade secrets and test data**
143.	295	Russia should provide information on its regime for the protection of undisclosed test data. Is the protection available for products even if they are not patented? What protection extends to prevent reliance by third parties on test data submitted by the original applicant in order to prevent unfair commercial use? Please provide a copy of the opinion of the Ministry of Heath referred to in para 295 for WP review.

No.	Paragraph No.	Comment
144.	**296-297**	**- Enforcement** **- Criminal Measures**
145.	296	What amendments or other elaboration has been undertaken in the Criminal Code to establish a wider scope of liability? The text should reflect the concerns of the WP regarding the very high threshold for criminal enforcement under Article 146 (i.e., the "grave" standard), and information on what has been/is being done to specifically address this concern.
146.	297	What steps has Russia taken to increase the number of cases in which fines and jail time are actually imposed or served for IP violations. Please provide information on the frequency with which courts issue destruction orders for infringing goods and materials and implements in civil and criminal cases
147.	297	criminal enforcement statistics should be updated.
148.	296	(§296) Please describe in detail the criminal actions and remedies that are available in your current legislation and "de lege ferenda" to combat counterfeiting of geographical indications and patented products. Please cite the relevant provisions of your legislation in force. Concerning the legislative initiatives to further improve the relevant legal provisions, please indicate their content, update on the progress of enactment of the legislation and describe how these laws will be implemented. Please list the different provisional measures provided for in your current legislation and, if possible, in new draft laws in this field. Please describe the procedures that must be followed, and cite the relevant provisions of law. Concerning the Draft Arbitration Procedure Code, please update on the progress of the enactment of the Code and describe how it will be implemented. (§296ff) Please indicate the authorities responsible for the application of the measures to combat counterfeiting and piracy. Please explain whether the competent authorities are empowered to act ex officio and, if so, please indicate the enforcement actions that may be taken and the procedures that must be followed. Concerning the Draft Custom Code, please update on the progress of the enactment of the Code and describe how it will be implemented. Please describe any new initiatives that are planned to improve the enforcement of intellectual property rights in your country, particularly initiatives to combat counterfeiting and piracy in the public-health domain and in the optical media industry. Is there a particular action plan in place?
149.	**296**	**Russian Federation:** Since 1999 there had been a special department dealing with intellectual property crimes within the Main Economic Crime Division of the Ministry of Interior (and its regional departments). As for criminal sanctions, the Criminal Code of 13 June 1996 included three articles specifically dealing with intellectual property: Article 146 (Copyright and Related Rights Violations); Article 147 (Patents Violations); and Article 180 (Trademark Violations). While copyright violations were punishable by fines and imprisonment, for other intellectual property violations no imprisonment had been provided until December 2001 where a new paragraph was introduced to the Criminal Code providing for liability for illegal use of trademarks. In addition to fines, this paragraph stipulated that sanctions up to five years of imprisonment. The legislators continued their work on the Criminal Code with a general intention of establishing an even wider scope of liability. On 13 June 2002 the project of the Federal law "On Amending Article 146 of the Criminal Code of the Russian Fderation" was adopted in the second hearing by the State Duma of the Federal Assembly of the Russian Federation. The project law suggests specifying the objective part of respective corpus delicti by introducing the notion "heavy proportion" instead of "heavy damage", the former establishing the amount of 200 minimal wages. The law also suggests increasing the liability to up to 6 years of imprisonment with and without confiscation of property. Abandoning the assessment criterion "heavy damage" will, on the one hand, enable to unify the criteria of protection of constitutional rights of composers and performers and, on the other hand, to increase the effectiveness of the application of the mechanism of criminal liability for the offence.

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150.	**297**	**Russian Federation:** Since intellectual property crimes were not considered to be "grave" crimes, enforcement bodies used other articles of the Criminal Code where appropriate such as smuggling, consumer fraud, etc. In 1997, there were 720 intellectual property violation cases; in 1998, 950; in 1999, 1300; in 2000, 2000 including 1,117 cases on copyrights and related rights violations. In 1999, 125 illegal manufacturing facilities were closed down and 30 million illegal units were confiscated. In 2000, 334 manufacturing facilities were closed down and 50 million units were confiscated. Confiscation of illegal goods, materials and equipment used for their manufacturing was not directly stipulated under Articles 146, 147 and 180 of the Criminal Code. It was normal practice, however, to confiscate these goods and machinery as material evidence. For the illegal copies, the right holder could request to take them. For machinery, the matter had to be decided by courts. Concerning the Superior Arbitration Court's practice, the Court issued a decision on confiscation and destruction in cases where the right holder did not request the goods to be transferred to him. Where a court did not order confiscation of illegal goods in civil proceedings, the right holder might appeal. Pursuant to the project of the new Customs Code of the Russian Federation protection of intellectual property rights may be provided by customs authorities upon a written request of a right holder. The suspension of launch of goods which cross the border of the Russian Federation and are recognized as counterfeit may be done upon the customs procedure and customs control. The project was discussed by the committees of the State Duma of the Federal Assembly of the Russian Federation. Devoted to the protection of the intellectual property rights by the customs authorities no amendments were made to it that would be inconsistent with the TRIPS Agreement.
151.	**298**	**- Criminal Procedure**
152.	**298**	**Russian Federation:** In accordance with the legislation in force, the enforcement bodies had no responsibility for discovering or identifying criminal violations. Since intellectual property violations were within the category of private accusation, criminal procedure could not be initiated without a complaint by the right holder. The time limits for investigation in accordance with the Criminal Procedure Code was initially 10 days and 30 days for the final decision in complex cases. Normally, the statement that the goods were counterfeit was made by the right holder. Official state examination might be done by the Centre for Expertise of the Ministry of Interior. At the request from an anti-trust or law enforcement body and on the basis of a relevant court order, Rospatent experts provided an opinion regarding a trademark, invention or another intellectual property issue. An investigator, prosecutor or court would then make a decision based on the results of the examination. The examination initiated by the law enforcement bodies was free of charge.
153.	298	Have the Criminal Procedures Code and the Customs Code been amended to provide proper *ex officio* authority to take enforcement actions? If so, the text should be expanded to include information on how proper ex officio authority is provided under the Customs Code and the Criminal Procedures Code.
154.	**299**	**- Administrative Measures**
155.	**299**	**Russian Federation:** A new Code of Administrative Offences was in force since 1 July 2002. Articles 7.12, 7.28 and 14.10 of this Code established liability for violation of copyrights and related rights, rights to inventions, useful models and industrial designs, service marks and appellation of origin. The administrative sanctions, in addition to fines, included confiscation of counterfeit products. In addition, anti-monopoly legislation provided certain sanctions that were administered directly by the Ministry of Anti-monopoly Policy and Support for Business. Any business entity whose rights of intellectual property were violated by another business entity could apply to the Ministry to start the proceedings against the offender. The Ministry could issue a decision imposing fines or demanding certain actions or prohibiting infringing actions. The procedure normally took between one and two months, and in complicated cases between three and six months.

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156.	**300-301**	**- Border Measures**
157.	**300**	**Russian Federation:** Article 10 of the Customs Code referred intellectual property protection to the competence of the Customs authority. Since 1998, the State Customs Committee accepted applications from right holders for the customs measures. The following documents had to be presented: confirmation of the intellectual property rights, power of attorney (when necessary) and information on the violation (description of goods) as well as any additional information available from the right holder. The Code of Administrative Offences in force since 1 July 2002 introduced administrative liability for import of goods violating intellectual property rights.
158.	**301**	**Russian Federation:** At present, the Customs Code did not allow the Customs bodies to act fully in accordance with the all provisions of the WTO Agreement on TRIPS in terms of supplying the right holder as a third party with information and of providing the right holder with an opportunity to inspect detained goods and take samples. The draft new Customs Code included a new section dealing with intellectual property protection which effectively addressed these issues as well. When goods were detained, the Customs had ten working days to inspect all goods. Particular attention was paid to the goods indicated by the right holder. The term could be extended for another 20 working days or 31 calendar days. According to the existing practice, if during this period a violation of intellectual property was confirmed, the Customs transferred the evidence to the Police and prosecutors, and, since 1 July 2002, the Customs would also draw up a protocol of administrative offence. The right holder could then bring a civil law case to the court. As for the possibility of obtaining from the Customs bodies information about the infringing company, its history and activity, the new draft Customs Code stipulated that such information would be available in relation to importers as well as imported goods.
159.	300	Please provide the number of applications filed by rights holders for suspension of release of suspected counterfeit trademark or pirated copyright goods since 1998 and the number that are currently active.
160.	301	The text should include a description of the enforcement provisions of the draft Customs Code, the “protocol of administrative offense” under it, and note the status of both, including border enforcement mechanisms currently implemented, as well as planned, to stop the flow of infringing goods across Russia’s borders.
161.	**302-304**	**- Civil Law Remedies and Procedures**
162.	302	the text notes “section 3 of Article 44” of TRIPS. There is no section 3 under Article 44 in the TRIPS Agreement, and this Article pertains to goods that have cleared Customs. Article 50 pertains to broader injunctive relief authority. Please substitute the accurate citation.
163.	302	Please describe in detail the civil judicial procedures and civil remedies available to right holders "de lege ferenda" in the different fields of intellectual property covered by Part II of the TRIPS Agreement, which allow for effective action against acts of counterfeiting and piracy. Please cite the relevant provisions of the legislation providing for those civil procedures and remedies.
164.	304	Concerning the issue of enforcement of intellectual property rights in general, could you please provide us with English translations of the Regulations in this field and information regarding the manner in which the Russian Federation is going to implement those Regulations in order to fulfil the requirements of Articles 41 to 61 of the TRIPS-Agreement.
165.	**302**	**Russian Federation:** The Higher Arbitration Court of the Russian Federation had drafted a Code of the Arbitration Procedure Code which was currently under examination by the Duma. This draft code reflected the latest international developments in the organisation and administration of economic justice, and established new mechanisms essential for an effective application the WTO Agreements. For example, these mechanisms included preliminary interim measures which would promote realisation of Section 3 of Article 44 of the WTO Agreement on TRIPS. The draft code also contained an updated section on consideration of economic disputes with participation of a foreign party which introduced application of the principle of reciprocity in the enforcement

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		of court orders and awards; national treatment for foreign participants in respect of the procedure; and the abandonment of the principle of absolute immunity. Remedies available under the Civil Code included confirmation of rights; prohibition of actions violating rights; imposing fines; compensation of damages caused to the right holder; and compensation of income received by the infringer and statutory compensation. The last two measures were available only for copyrights.
166.	**303**	**Russian Federation:** Regarding claims for damages and assessment of damages, civil law cases provided for the general principle of full recovery of damages. The amount of damage was calculated in accordance with the general norms of the Civil Code based on the prices of corresponding legitimate goods adjusted for actual damage and forgone profit of the right holder. As for the statutory compensation, it was initially defined by the plaintiff who had the burden to prove the fact of damage caused without calculating the amount. Then it was further assessed by the court based on the nature of infringement, income received by the infringer, etc. The final decision on the amount of compensation rested with the court. Regarding provisional measures under Article 75 of the Arbitration Procedure Code, the court could issue an order for preliminary injunction based on the plaintiff's petition. Such measures should be aimed at securing the claim. Provisional measures included: prohibition of infringing actions, arrest of property including back accounts, seizure of documents and other evidence. The judge handling the case should make a decision the next day after the petition was filed without the representatives of the parties. Under the current legislation, any petition for provisional measures could be filed after the civil procedure was initiated. However, the draft amendments to the Code of Arbitration Procedure proposed to allow provisional measures to be obtained before filing the claim.
167.	**305-326**	**TRADE-RELATED SERVICES REGIME** **Policies Affecting Trade in Services**
168.	General	We are not satisfied with the outline of this section, and we believe a substantial revision is warranted
169.	305	Data Protection: In paragraph 304 of the Report it is mentioned that the Russian legislation will fully comply with the provisions of the TRIPS Agreement from the date of accession to the WTO: 1. (§295) Could you please provide us the English translation of the Regulations which provide for this effective protection against commercial use of undisclosed test or other data submitted to authorities in the Russian Federation in support of applications for marketing approval of pharmaceutical and agrochemical products which contain new chemical substances, and information regarding the manner in which this Regulation is going to be implemented to fulfil the TRIPS requirements? Compulsory Licenses: 2. (§292) Concerning the issuance of compulsory licenses, and therefore the Patent Law Draft, could you please provide an English translation thereof as well as information regarding the progress of the enactment procedure of this Draft?
170.	306	As indicated in the Draft Report, the Representative of the Russian Federation notes that, in these circumstances, the Russian Federation needed to retain the possibility of having recourse to certain temporary measures aimed at the maintenance of a normal competitive environment, balance and integrity of markets, social stability and employment. We would like to get more information on “temporary measures”. Will it be a measure of Emergency Safeguard Measures or not? What conditions will temporary measures be applied?
171.	306	We retain a general concern about use of the term “infant industries” in the context of services. If the concept is to be retained in the text, we will need

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		an agreed definition.
172.	313	We support the points made by delegations in WT/ACC/SPEC/RUS/25/Add.1, listed as paras 313-316 of the addendum. They are relevant and are not meaningfully reflected in the revised draft Working Party Report text. We seek incorporation of these points and an appropriate substantive response from Russia. These points are listed below: **Language from the addendum:** - These members expected the Russian Federation to make a commitment by which deposit guarantees would be granted in a non_discriminatory way to all account holders irrespective of the bank they choose, and under the same conditions and up to the same deposited sums. These Members were of the view that this would foster equal conditions of competition between different banks operating in Russia, and would help improve the solidity and functioning of the financial sector more generally. - These members commended the Russian Federation on the reform proposals that were being considered towards the creation of a deposit insurance scheme, although they had concerns about the length of time for implementation suggested in certain proposals, the low figure for guaranteed deposits (equivalent to around $650) and the continuation of the preferential position currently enjoyed by Sberbank, which was contrary to WTO principles of non_discrimination and should be ended on accession. They invited the Russian Federation to submit more detailed information on these proposals, including on their implementation date, as well as to demonstrate the equivalence of guarantees for deposits with the Sberbank and other banks." - The report could also usefully include a description of existing prudential requirements governing the financial services sector, together with relevant legislation. - These members expected Russia to make commitments to (a) divest or bring under the responsibility of another branch of government the commercial activities of the Central Bank of Russia (CBR) and (b) to ensure that there is no discrimination between established banks as regards the guarantee of deposits. Both these steps should be completed by an agreed deadline. We would appreciate updated information on Russia's plans to provide a <u>deposit guarantee system</u>: - What is the legislative status of the law establishing the system. When will the particulars of this proposal be available to WP members? We would like to see a brief description of the new law as it relates to this issue incorporated in the Report. - Does the new deposit insurance law include a time line for transitioning Sberbank into the system? We would also like to know the timetable for the sale of Vneshtorgbank to non-governmental institutions.
173.	322-324	Interested WP members are examining the question of the need for these paragraphs in the WP report in plurilateral meetings on Services. If reference to these issues is retained in the draft WP report text, we believe that they will need to be revised based on the results of the plurilateral discussions..
174.	325-326	While we appreciate Russia's willingness, in para 326, to confirm its intent to observe GATS requirements, the text cannot be said to fully respond to members' concerns expressed in para 325. WP members would appreciate a substantive response from Russia to the issues raised in paragraph 325.
175.	*305-326*	*Some important changes made to the text, especially that the reference to natural monopolies has been deleted. We take that as a reflection of the fact that the issue of monopolies is in essence a market access restriction that is part of the specific commitments negotiations. However, it is important to have some detailed references to the regulatory framework concerning monopolies in the WP report.* *We refer to some of the comments we made on natural monopolies at the plurilateral on services on November 1:* - *Two issues related to natural monopolies* - *natural monopolies as an argument for not allowing market access, and*

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		- *the regulations on natural monopolies, and whether some of these are in contradiction to the GATS or fall under the GATS, esp. Art VIII on monopolies and exclusive service suppliers and art IX on Business Practices. We agree that these articles are relatively narrow.* - *On 1: We do not accept the argument that for sectors dominated by so-called natural monopolies, it is impossible or extremely difficult to increase market access. For the energy sector, the only natural monopoly with decreasing marginal costs would be the transportation/distribution networks (gas pipelines, electric power transmission and distribution lines), i.e. the lines not the transportation as such. The same goes for telecom and some areas of the transportation sector (services connected to ports, terminals etc. are "unbundled" and not naturally part of monopoly). For natural monopolies in infrastructure, it is important to ensure that both producers and consumers have non-discriminatory access to them on transparent and objective terms, similar to those established for instance through the Reference Paper for Telecommunications.* - *On 2: The test of whether anti-monopoly regulations might not be conform with the GATS, is to look to art II on MFN, art XVI and art XVII specifically.*
176.	*306*	*If measures are to be taken for safeguard reasons, they have to be in conformity with the GATS, regardless of whether it is for infant industries or other business.*
177.	*307*	*Russia is intending to maintain its subsidies to domestic service providers, the bulk of which go to large service providers such as Rostelekom, Ingostrakh, Aeroflot, etc.* - *We seek the inclusion in this section of the draft Report of factual information on the types and levels of subsidies currently provided; Russia's intentions in respect of areas currently not receiving any subsidies; and an undertaking by Russia to phase out its system of subsidies.* - *We seek the inclusion in this section full responses to questions raised by Members.* *We note that a number of issues are still subject to the broader plurilateral discussions, and we reserve the right to request further changes in this section pending their outcome.*
178.	*320*	*We assume that the measures referred to either come under prudential measures or BOP-measures and should be conform with the GATS.*
179.	*321-324*	*Para 321-324 are as before and do not reflect discussions at the plurilateral on services. We therefore reiterate some of our comments.*
180.	*321*	*The use of public utilities argument cannot be used for protectionist purposes or in areas where the services are of a narrow nature that cannot be defined as a general public service. Specifically on environmental services, no intention to undermine the freedom for local government, municipalities to decide whether they themselves operate or by tender open up to private actors to operate e.g., sewage treatment facilities or refuse disposal. Does not undermine government's rights to formulate and implement national environmental policies. In taking commitments in the area of public utilities it is possible to make the distinction between statutory work on behalf of and delegated by government, and commercial services in the area and we would urge the Russian delegation to look further into this matter.*
181.	*322*	- *On culture, comparing the WP draft report and the Russian services offer, the report text seems wide open as to when and were there might be authorization requirements in place, while in the offer it seems only related to education. The working party text cannot be that general because it can imply a national treatment restriction. We would like a confirmation that where specific commitments are made, no new (Art XVI- and Art XVII-) restrictions based on cultural concerns suddenly pop up.* - *On specifically protected natural territories, we would think that the regulations to protect such territories would be the same for all, and as such are covered by the GATS (relevant articles are preamble and art VI on domestic regulation, and Art XIV (b)).*
182.		Our delegation is still deeply concerned over the Russian Federation's maintenance of a discriminatory regime with regard to the supply of services on Russian services' market by our nationals residing in different regions of our country, under the modes of supply - "commercial presence" and "movement of natural persons". We urge the Russian Federation to make the necessary adjustments prior to its accession in order to avoid the discriminatory treatment and to allow all our nationals to provide services on the Russian market at the equal footing.

No.	Paragraph No.	Comment
183.	**327-330**	**TRANSPARENCY** **- Publication of Information on Trade**
184.	327-330	The publication of customs regulations and decrees is vital for traders attempting to import and export. We understand, however, that this is often a problem for importers. We understand that there are over 4,500 customs regulations and "instructions". While it is possible that these exist somewhere in published form, it is not easily accessible to traders, and the State Customs Committee does not provide them to importers (or to Embassies) upon request. This information should be noted in the WP report text. I. Russia should elaborate on how it is approaching this issue, e.g., the need to improve and systematize the availability of customs documents, and to simplify the current system of customs regulations in its draft customs code. There is a larger problem of operational transparency. This has become clear in the area of e.g., Telecommunications and energy, where the market can be manipulated with little scrutiny by major players.
185.	329	There is a crucial typo in the penultimate sentence. It should read “three” days rather than “the” days.
186.	330	It would be useful to have information regarding elements in this paragraph, e.g., can Russia identify the publication or publications referred to in this paragraph. We note that GATT 1994 and GATS requirements are specifically mentioned, but that TRIPS Agreement transparency requirements are not mentioned. This needs to be addressed.
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No.	Paragraph No.	Comment
190.	**331**	**Notifications**
191.	331	Is this text acceptable to Russia? What steps is Russia taking to develop the required initial notifications?