

WORLD TRADE ORGANIZATION

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Additional Questions and Replies

The Permanent Mission of the Russian Federation has submitted replies to questions raised after the meeting of the Working Party held on 30 - 31 May 1996, with the request that they be circulated to the Members of the Working Party. The questions and replies are reproduced hereunder.

TRADE IN SERVICES

Question 87

Re. Question 192 (WT/ACC/RUS/9) We have noted the reply that “the memorandum on services (WT/ACC/RUS/6) cannot be treated as a legal text”. Nonetheless, we are of the view that “definitions” of a such terms as “foreign company”, “State company”, “non-State company” etc. are necessary to understand the content of the document. Thus, we ask the Russian authorities to add this element to the current document.

As the Working Party proceeds further with its examination of Russia's regime affecting trade in services, it will be important for Members to receive details on any powers being exercised at sub-federal levels which affect this area of trade. We would therefore request that any responses concerning service sectors should specify whether or not this consideration is relevant; and, if so, should include appropriate detailed information.

Answer

Since laws and regulations in force may define notions of “foreign company”, “State company”, “non-State company”, etc. in a specific way depending on the function of the particular law, additional “informal” definitions may be misleading. With that understanding, we may describe the meaning of these notions usually given in general discussions.

"Foreign-owned companies" are usually understood to mean business entities established pursuant to the laws of foreign jurisdictions, including those which have their representative offices or branches in the Russian Federation, or business companies duly registered as Russian legal entities, but having a foreign founder or shareholder who owns a controlling stake in the respective venture (in accordance with Russian tax legislation).

The notion of "State-owned companies" and its more general equivalent, "public enterprises", cover both those legal entities which are wholly-owned by the State (federal authorities or authorities of a territorial subject of the Russian Federation), and privatized enterprises in the form of joint stock

companies with a controlling block of shares held by the State (under the Civil Code, and legislation on privatization).

"Non-public enterprises" are usually understood to mean any Russian business entities which do not fall under the definition of "public enterprises."

Question 88

Re. Question 196 (WT/ACC/RUS/9) Which are the bodies responsible, at regional level, for establishing the quotas and the professional composition of the foreign labour force attracted to the Russian Federation? What are the criteria used for this purpose?

With regard to quotas for the employment of foreign nationals, is there any plan for Russia to review the quota system, or even to abolish quotas as a whole?

Do these quotas also apply in the case where a foreign company establishes a branch or a subsidiary office in Russia?

In responding to question 196, it is stated that the Russian Federal Migration Service approved quotas for the employment of foreign nationals, based on proposals submitted by sub-federal authorities. Does the Russian Federal Migration Service use any other information or criteria to approve quota levels? How is information on approved quota levels provided to the public? Can decisions of the Federal Migration Service be appealed? Are quotas filled on a first-come, first-served basis?

Answer

No overall quotas are pre-established either for the whole of the Russian Federation or for any of its regional governments as far as the number and professional composition of foreign employees are concerned.

In keeping with the Regulations on the Hiring and Use of Foreign Employees in the Russian Federation, as approved by Russian Presidential Decree No. 2146, dated 16 December 1993, a prospective employer is to submit the following documents to the Federal Migration Service:

- an application indicating, in particular, the number of foreign employees wanted, both in aggregate and by profession;
- a proposal (conclusion) from the appropriate executive agency of the Russian Federation's territorial subject where the foreign nationals are to be employed, which must substantiate the advisability of the employment and use of foreign personnel by the respective employer; and
- drafts of employment contracts, or other documents confirming the prior agreement with the foreign nationals in question or with foreign partners on the intent to employ the respective foreigners and on conditions of their employment.

When issuing an authorization to a specific employer to hire foreign personnel, the Federal Migration Service (or its regional branch) may, based on recommendations from the administration of the corresponding regional government of the Russian Federation, set a limit on the number of foreign nationals who may be employed, both in aggregate and by profession.

Applications from employers are considered on a "first come first served" basis. Authorizations to employ foreigners are granted, as a rule, for a period of up to one year.

The Federal Migration Service is required to decide to issue or to refuse to issue such an authorization within 30 days after the date on which an employer filed the requisite documents. Any decision taken by the Federal Migration Service may be challenged in court.

Question 89

Re. Question 198 (WT/ACC/RUS/9) In the answer to question 198, it is stated that a certain payment in the amount of minimal monthly wages established by the legislation is charged from the employer for the extension of the term of the permit for each foreign worker. What are the levels of these fees for the initial and additional terms? Why are the fees different? Does the phrase "minimal monthly wages" refer to a flat rate for each worker, or are payments set at a percentage of monthly wages? Are all workers assessed payments based on the same rate?

The response to question 198 also states that the fees for the renewal of work permits are intended to compensate local administrations for the use by foreign employees of local infrastructure, municipal transport, social services and culture which are financed from local budgets. Are foreign workers required to pay any other type of special fee or tax to offset the costs of the consumption of government services?

Answer

Each time an employer is granted an authorization to employ foreign nationals or has it renewed, he is to pay a one-time fee for each foreign employee in an amount equal to the minimum monthly wage established by legislation of the Russian Federation. Such a minimum monthly statutory wage is fixed in Russia for all employers in relation to any and all employees, and is the absolute minimum limit for any and all wages payable in the country. This indicator is used as the unit of account during the calculation of some charges, fines, and other payments. Since the amount of the minimum monthly statutory wage over recent years has been repeatedly increased, so has the authorization fee.

Foreign employees are not required to pay any special social welfare dues to local authorities.

Question 90

Re. Question 200 (WT/ACC/RUS/9) Is employment of foreign nationals from countries which are not the party to the intergovernmental agreement on reciprocal employment impeded due to the quota system for the employment of foreign nationals?

Answer

No, it is not (see Answer 88 herein). Existing legislation does not provide for any restrictions on the employment of foreign nationals depending on their country of origin. Under intergovernmental agreements, quotas may be set whereby employment must be provided to a certain number of people regardless of the situation and developments on the labour market of the host country.

Question 91

Re. Questions 200, 286, 288 and 375 (WT/ACC/RUS/9) We note that the Russian Federation has in place a number of reciprocal arrangements, including bilateral agreements on the reciprocal employment of citizens of various countries (Q.200, page 77), reciprocity measures for the insurance

industry (Q.286, page 94), and reciprocity measures for the licensing of foreign and joint venture banks (Q.288, page 94). Could the Russian Federation provide details of any other reciprocal arrangements that are maintained in the services industries and indicate whether it is prepared to remove these reciprocity requirements in the accession negotiations? In this context, we would also like to know whether any of the bilateral economic, technical cooperation and trade agreements signed by Russia cover trade in services and whether any of these agreements confer preferred or reciprocal supplier status on companies from signatory countries (Q375)?

Answer

The answer to this question will be given in due course in the initial offer of a schedule of exemptions from the Most Favoured Nation obligations in accordance with Article II of GATS and the Annex on Article II exemptions. See also Answer 111 herein.

Question 92

Re. Questions 204, 214, and 242 (WT/ACC/RUS/9) As the Swiss delegation raised these questions at the working party's last meeting, we would be grateful if the Russian delegation would let us have the corresponding replies as soon as possible.

Answer

Answers to questions 204 and 214 were submitted in the Third Working Party in the document (WT/ACC/RUS/9/Add.2). The Answer to Question 242 follows.

In order to provide services in the area of urban planning and landscape architecture it is necessary to obtain a licence in accordance with the procedures determined for all other types of architectural activity.

Services in the area of architectural activities in the Russian Federation are subject to licensing in accordance with Federal Law No. 169-FZ "On Architectural Activity in the Russian Federation" dated 17 November 1995, and Regulations of the Government of the Russian Federation No. 929 "On the Adoption of the Provision on Creative Architectural Activity and its Licensing in the Russian Federation" dated 22 November 1993.

Licences are issued to individuals only. Licensing requirements with respect to all types of architectural activities are the same:

- Russian Federation citizenship;
- university degree in architecture;
- working experience in the area no less than 2 years;
- knowledge of requirements with respect to construction and design in the Russian Federation.

A legal entity headed by an individual possessing a licence may render services in the area of architecture without obtaining an additional licence, and may employ non-citizens.

Question 93

Re. Questions 204, 242, 248, 250, 252 and 254 (WT/ACC/RUS/9) We note that Russia has provided additional information on licensing requirements for a number of sectors (WT/ACC/RUS/9). However, there remain a number of sectors for which licensing requirements have not been

specified. These include urban planning and landscape architecture (Q.242, page 86), real estate, rental and leasing services without operators, advertising services and mining industry services (Q.248, Q.250, Q.252, Q.254 page 87). We have also previously submitted questions regarding the criteria used for licensing suppliers in the communications, audiovisual and transportation sectors. We would also like to know for which sectors numerical quotas exist on the number of licences issued to foreign companies (Q.204, page 78).

Answer

As noted, the answers to questions 204, 248, 250, 252, and 254 were previously submitted in WT/ACC/RUS/9/Add.2. Regarding the additional sectors:

1. On city planning and landscape architecture services, see answer 92 herein.
2. On realty-related services, see answers 248 and 249 in WT/ACC/RUS/9/Add.2.
3. On leasing services, see the answer 250 in WT/ACC/RUS/9/Add.2.
4. On advertising services, the licensing of advertisers still is regulated as described in answer 252 in WT/ACC/RUS/9/Add.2.
5. On mining services, see answer 254 in WT/ACC/RUS/9/Add.2.
6. On communications services: the provision of communications services on the territory of the Russian Federation is governed by the Federal law FZ-15 "On Communications", dated 22 February 1995. It establishes that the activities of individuals and legal entities which are related to the provision of communications services may be undertaken on the basis of a proper, duly executed and duly obtained licence. Such licences to act in the field of communications are issued, amended, renewed, and terminated by the Ministry of Communications of the Russian Federation. The principal legislative and regulatory acts which the Ministry of Communications is guided by during the consideration of applications for, and the issuance of, communications licences include the following:
 - Part I of the Civil Code of the Russian Federation, dated 1 January 1995;
 - Federal Law FZ-15 "On Communications," dated 22 February 1995;
 - Federal Law FZ-129 "On Mail Service," dated 9 August 1995;
 - Russian Government Resolution No 642 "Regulations on the Licensing of Activities in the Field of Communications in the Russian Federation," dated 5 June 1994; and
 - Russian Government Resolution No 1379 "On the Licensing of Television and Radio Broadcasting and of Activities in the Field of Television and Radio Broadcasting in the Russian Federation," dated 7 December 1995.

In order to create equal conditions for the obtaining of licences by any parties, regardless of their organizational-legal form and the country of incorporation or nationality, decisions to issue or deny licences are taken collectively by members of special licensing commissions set up by the Russian Ministry of Communications for the following types of activity: telecommunications, mail services; and television and radio broadcasting. Prospective licensees are to submit the following documents:

- licence application according to the established form, which must provide essential data regarding the applicant and list its principal activities;
- corporate foundation documents, and certificate of registration;

- decision, if required, on the possibility of using the requested frequency; and
- technical proposals providing a clear idea of the communications services to be supplied, as well as answers to a number of specific technical questions.

The consideration of applications for a licence comprises the following four phases:

- first, a duly executed application is accepted and a preliminary expert examination of accompanying documents is conducted in accordance with applicable legislation;
- then, a detailed technical expert assessment is carried out to see if the services to be provided will meet applicable norms and standards and be in line with the established rules for the organization of communications and the use of technical facilities;
- then, "special terms" are worked out, which will be binding upon the prospective licensee during his subsequent activities, including the conditions of being connected to public communications networks; and
- finally, the decision is taken to grant or refuse to grant a licence.

This decision is taken on the basis of such primary factors and considerations as:

- projections for the immediate future as to the development of communications in the given region;
- the availability of these or other communications services there;
- public interest in, and requirements for, the services applied for; and
- the quality and quantity of such proposed services, and the time frame during which they will be available.

7. On Audio-visual services: the provision of audio-visual services is currently licensed in accordance with the same procedure which governs the issuance of licences for public movie and video screening. Rules regarding the licensing of public movie and video showings in movie theatres and on television are set forth in the Regulations on the Licensing of Activities Related to Public Movie and Video Screening, as approved by Government Resolution No. 941, dated 19 September 1995, and are binding for all legal entities and individuals engaging in business and entrepreneurial activities in the Russian Federation. This kind of licensing is carried out by executive authorities of the Russian Federation's territorial subjects. Responsibility for maintaining a consolidated register of licensees and for providing methodological, information, and advisory support to licensed legal entities and individuals supplying the respective services is held by the Russian Federation State Committee on Cinematography. In order to obtain a licence, a prospective licensee files an application for a licence along with the package of other required documents as listed in the Regulations. Foreign legal entities and nationals must be registered in the Russian Federation to conduct entrepreneurial activities in accordance with applicable legislation. Licences are issued for 3 to 5 years, unless a shorter validity period is requested in the application for a licence. Licences are issued for a fee whose size depends on the corresponding expenses of the executive agency of the Russian Federation's territorial subject which is authorized to grant such licences, and is determined in accordance with the rules for establishing licence fees, as approved by the Ministry of Economics and the Ministry of Finance of the Russian Federation. A licence holder must act in accordance with the applicable legislation of the Russian Federation and the rules established in the Regulations on the Licensing of Activities Related to Public Movie and Video Screenings. Those executive agencies of the Russian Federation's territorial subjects which are authorized to licence said activities have the right to suspend or cancel licences if licence holders violate the conditions of their licences.
8. On services in radio broadcasting and television, see WT/ACC/RUS/6.

9. On transport, licensing conditions for transportation service providers are described in Answer 122 and 123 herein, as well as in Answer 316, 318, and 324 of WT/ACC/RUS/9.

Question 94

Re. Questions 206, 207, 214, 215, 216 (WT/ACC/RUS/9) We note that certain questions in general services section (but which also affect trade in financial services) remain unanswered (e.g. on international transfers (206, 214), capital transactions (207, 215, 216). We will be interested in the replies offered to these questions.

Answer

The answers to Questions 206, 214, 215, and 216 were submitted to the Third Working Party in document WT/ACC/RUS/9/Add.2.

The answer to Question 207 is as follows:

There are no quantitative restrictions in effect in the Russian Federation on transactions effected by residents involving capital movements.

Question 95

Re. Question 210 (WT/ACC/RUS/9) At what stage is the text on standardization and certification in banking activities, and what are its principal provisions?

Throughout the Financial Services section, reference is made to a draft policy document entitled, "Standardisation and Certification in Banking Activities" (e.g., in question 210). What is the status/timing/proposed content of this document?

Answer

Based on provisions set forth in the following Russian Federation Laws No. 5151-1 "On the Certification of Products and Services", dated 10 June 1993; and No. 5154-1 "On Standardization", dated 10 June 1993; and No. 2300-1 "On Consumer Rights' Protection", dated 7 February 1992, as amended by Law No. 2-FZ of 9 January 1996, long-term work has gone under way to address the problems of standardization, methodological support, and certification in banking business.

With this goal in mind, a working party has been established, consisting of representatives of interested agencies, nongovernmental organizations, and banks.

Banking standardization guidelines, as approved by this working party, provide for the standardization of banking terminology and definitions, the standardization of banking services, metrological support, the certification of banking technologies and services, the development of information support, and the upgrading of banking professionals' qualifications.

At the request of the Central Bank of the Russian Federation, the State Committee on Standardization, Metrology, and Certification has drafted an action programme to standardize and certify information technologies in the banking business. Over the past few years, this Committee has approved a number of standards related to the banking sphere, including:

- information technology, cryptographic data protection, procedures for digital signature creation and verification based on asymmetric cryptosystems; and

- rules for the awarding of State registration numbers for securities identification purposes.

Two more standards related to banking have by now been prepared. They are:

- metrological support for banking transactions, general provisions; and
- recommendations regarding the generation of a list of parameters and facilities used in banking business and subject to metrological supervision and control.

These standards are based on the ISO Technical Committee 68 "Banking and related financial services" guidance.

This Committee and the Central Bank of the Russian Federation have jointly developed and phased in more than 500 standardized document forms related to banking business. They comprise documents for cash-issue and budget transactions, cash control, lending operations, payment orders, etc.

Question 96

Re. Question 213 (WT/ACC/RUS/9) The answer to this question defines the list of sector meant to be natural monopolies. We feel that perhaps not the full given sectors fall under the scope of the term natural monopolies. We would like to draw the Russian authorities attention that several ongoing negotiations under the WTO guidance cover at least a part of the mentioned sectors. It is the case of maritime transport services in which port services are covered by the model schedule of commitments and basic telecommunications services which cover large part of the telecommunications and mail services. Please precise what part of the enumerated sectors, in reply 213, fall under the notion of natural monopolies.

Answer

The Federal Law FZ-147 "On Natural Monopolies" dated 17 August 1995 regulates activities performed by the legal entities and its executives operating under the condition of a natural monopoly, rather than sets out monopoly rights to be accorded to specific suppliers of goods and services.

For a more precise definition see Article 3 of the law "On Natural Monopolies" which has been previously submitted to the WTO Secretariat. The purpose of this law was to limit the opportunity of misuse of monopoly status towards competitors and to consumers of goods and services. Article 4 of this law lists the activities and spheres where subjects of natural monopolies may exist. A large number of entities, which may not be the subject of natural monopolies, may also be operating in the listed activities and spheres. In every sphere of such activity, the federal authorities on natural monopolies regulation should determine which entities dealing with production (sale) of goods and services are in the condition of a natural monopoly. See Articles 3 and 4 of the above referenced law. In accordance with Article 10 of this law, such entities shall be listed in a register as the subject of natural monopolies and the State regulation and control will be carried out in relation to those entities.

In accordance with Article 9 of this law, a Federal service of the Russian Federation on the regulation of natural monopolies in the communications sector, and a Federal service of the Russian Federation on the regulation of natural monopolies in the transportation sector are in the process of being established.

Question 97

Re. Question 218 (WT/ACC/RUS/9) Could Russia provide us with a schedule of commitments (limitations on market access and national treatment) for all the specific sectors?

Answer

The Russian Federation will submit an initial offer of schedule for specific commitments on market access and exemptions from national treatment with respect of all sectors in due course of its accession negotiations.

Question 98

Re. Question 225 (WT/ACC/RUS/9) Russia provided information that “If the international treaty provides for implementation of rules other than those provided for by Russian legislation, the rules of that international treaty prevail”. How the Russian authorities will enforce provisions set forth in the international treaty in case of serious collision between such a treaty and previously existing domestic law?

Answer

In accordance with Clause 4 of Article 15 of the Constitution of the Russian Federation, generally recognized norms of international law and international agreements to which the Russian Federation is a party form part and parcel of its legal system and, in the event of a conflict between rules stipulated by an international treaty and those established by internal legislation of the Russian Federation, the rules set forth in the international treaty prevail.

Pursuant to Article 5 of the Russian Federation Law "On International Agreements of the Russian Federation," rules which have been established by an international agreement and officially published in Russia, to which Russia is a party, have direct application throughout the Russian Federation unless it is required that internal governmental regulatory legal acts be issued to govern their enforcement; for other rules of international agreements to apply, corresponding legal acts need to be adopted (in keeping with Article 34 and Section 5 of the Russian Federation Law No. 101-FZ "On International Agreements of the Russian Federation" dated 15 July 1995).

If rules established by an international agreement which does not require that any internal governmental legal act be issued are inconsistent with internal governmental legal acts of the Russian Federation, the international agreement prevails directly. Where rules stipulated in an international agreement require that an internal governmental legal act be adopted, while the existing legal act of the Russian Federation which regulates the legal relationship in question is in conflict with the international agreement's provisions, Russian State agencies either amend the applicable internal governmental legal act accordingly or adopt a new internal governmental legal act which is consistent with the international agreement.

Reaffirming its commitment to the principle of voluntary compliance with international obligations, the Government of the Russian Federation ensures the fulfilment of the provisions of international agreements in the same way as it ensures compliance with its domestic laws and legal acts. All State agencies work with a view to applying and enforcing them, and public prosecutors and their offices maintain overall supervision over compliance.

Question 99

Re. Questions 225 and 243, 246, 252, 256 (WT/ACC/RUS/9) Could the Russian authorities ensure that the procedures of granting licences are operated on a non-discriminatory basis, what means that the same treatment is accorded to foreign services and services operators as to domestic ones?

Answer

The Russian Federation will ensure that its licensing system is in full compliance with the requirements of the GATS including Article 6 thereof upon accession. See also answer 97 herein. For information about licensing of services in the area of:

1. On architecture see answer 92 and 102 herein.
2. On research and development, the rules of licensing in this area are currently under consideration by the Russian Federation.
3. On advertising, see answer 252 in WT/ACC/RUS/9/Add./2.
4. On equipment repair and maintenance, see WT/ACC/RUS/6, page 8, paragraph (iii): and also answer 257 in WT/ACC/RUS/9.

Question 100

Re. Question 226 (WT/ACC/RUS/9) Are there any restrictions in employing Russian lawyers for foreign law firms or foreign lawyers to provide legal services?

Are there any restrictions for Russian law firms or lawyers to make partnership with foreign law firms or foreign lawyers?

With regard to the answer given in 226, can we interpret this to mean that foreign providers of legal services are permitted to establish partnerships or other joint arrangements with Russian lawyers?

Answer

The Russian Federation's existing legislation does not stipulate any restrictions on the retention of Russian lawyers or on the conclusion with Russian lawyers of contracts by foreign law firms.

The applicable legislation of the Russian Federation does not impose any limitations regarding the incorporation of legal entities or the conclusion of joint activity (partnership) agreements by Russian law firms (Russian lawyers) and foreign law firms (foreign lawyers). See Answers 219 through 231 in WT/ACC/RUS/9.

Question 101

Re. Question 230 (WT/ACC/RUS/9) Does the answer mean that foreign lawyers are not allowed to give legal advice on international laws?

Answer

In accordance with Paragraph 2 of Clause 3 of the Regulations on the Licensing of Paid Legal Services in the Russian Federation approved by Russian Government Resolution No. 344, dated 15 April 1995, persons having foreign law degrees may provide paid legal services in the form of consultations regarding the legislation of the country which awarded such degrees. Existing Russian legislation does not presently regulate the provision by foreign law firms and foreign lawyers of legal services in the form of consultations on international law as practised in the jurisdiction which awarded such degree.

Question 102

Re. Question 234 (WT/ACC/RUS/9) In the area of accounting, auditing and bookkeeping services the establishment of a wholly-owned subsidiary is permitted. What is the situation as regards branches of foreign firms?

Answer

In accordance with the Provisional Rules of Auditing in the Russian Federation, approved by the Decree of the President No. 2263, dated 22 December 1993, the following persons have the right to carry out auditing activities: natural persons (auditors), and juridical persons including foreign firms and joint-venture firms established with participation of both juridical and natural persons. The foreign auditing firms may carry out their activities through their affiliates. Both the auditors who have gone through certification and wish to work independently and the auditing firms may begin their activity only after State registration as subjects of business activity, the receipt of licences for auditing and the inclusion in the State register of auditors and audit firms. Audit firms shall be registered as enterprises set up for the purpose of auditing and may have any organizational structure and legal status except for that of a public joint-stock company.

In addition the Resolution of the Government of the Russian Federation No. 482, On the Approval of Normative Documents Regulating Licensing in the Russian Federation, dated 6 May 1994 stipulates that in order to provide additional guarantees for the independence of audit firms in their auditing activity, it is necessary that the share of the certified auditors and or the licensed audit firm compromises not less than 51 per cent of their authorized capital.

In accordance with the Civil Code of the Russian Federation both the branches and commercial representation offices can not be a judicial person, so they can not apply on their own for obtaining a licence to carry out auditing and accounting functions.

Question 103

Re. Question 237 (WT/ACC/RUS/9) In the response to question 237, it is stated that foreign nationals, stateless persons, and foreign legal entities shall engage in architectural activities on an equal footing with national and legal entities of the Russian Federation if this is stipulated by an international agreement to which the Russian Federation is a party. Has Russia signed any international agreements permitting foreigners to provide architectural services? If so, which countries have signed agreements with Russia?

It is also stated that in the absence of an international agreement, foreigners may participate in architectural activities in the Russian Federation only together with nationals or legal entities of the Russian Federation. Are foreigners restricted in the types of arrangements or partnerships that they can form with Russian nationals or legal entities?

Answer

At this time, the Russian Federation has not signed any international agreements permitting foreigners to independently render services in the area of architecture without the participation of Russian individuals or legal entities.

There are no restrictions on foreigners entering into agreements and participating in partnerships together with Russian individuals or legal entities possessing a licence to render services in the area of architecture in accordance with Article 10 of No. 169-FZ "On Architectural Activity in the Russian Federation" dated 17 November 1995.

Question 104

Re. Question 244 (WT/ACC/RUS/9) Please provide a clarification of what is meant by the term of "specific types of activities"?

Answer

In addition to Answer 244 submitted in WT/ACC/RUS/9 the Russian Federation States that the Government Resolution No. 1418 "On Licensing of Specific Types of Activities" dated 24 December 1994, regulates the general procedures for licensing in most economic industries. However, the specific licensing of services in the area of architectural activities is described in Answer 92 herein.

Question 105

Re. Question 271 (WT/ACC/RUS/9) The answer to this question makes reference back to the response given to question 225 - This reference raises questions regarding when Russian officials intend to present its draft schedule of commitments. What timing is foreseen?

Answer

See answer 97 herein.

Question 106

Re. Question 272 (WT/ACC/RUS/9) What is the anticipated timing of the establishment of a national reinsurance market through the establishment of private federal reinsurance companies? Could Russia elaborate on how foreign companies may participate in this process?

Answer

There are 31 specialized reinsurance companies, 6 of them with foreign equity participation, currently in business in the Russian Federation. In accordance with Russian Supreme Soviet Resolution No. 4016-1 "On the Bringing Into Force of the Russian Federation Law 'On Insurance'", dated 27 November 1992, the share of foreign investors in the charter capital of such an organization may not exceed in aggregate 49 per cent.

Specialized reinsurance companies may engage in reinsurance activities if they meet the following criteria:

- reinsurance must be the sole business they have been established for;

- they must be registered in the Russian Federation in accordance with the procedure stipulated by Russian legislation; and
- they must be licensed to undertake reinsurance activities. Under the above-referenced Resolution, the minimum paid-in charter capital of a prospective insurer applying for such a licence must be at least Rub 15 million.

The Russian Federation Law No. 108-FZ "On Joint Stock Companies" dated 26 December 1995, as amended by Law No. 65-FZ of 13 June 1996, requires, at the same time, that the charter capital of an open joint stock company must be equal to at least 1,000 times the minimum monthly wage established by federal law as of the company's registration date and that the charter capital of a closed joint stock company must be equal to at least 100 times the minimum monthly wage under federal law as of the company's State registration date. Presently, the minimum monthly wage stands at Rub 75,200 (See Answer 89 herein).

Question 107

Re. Question 273 (WT/ACC/RUS/9) What is the current status of the review of the bill which is intended to amend minimum capital requirements for insurance companies? (i.e., following the presidential veto of bill on December 31, 1995).

Answer

A draft of the Federal Law "On Changes and Additions to the Law on Insurance", which concerns, among other things, minimum capital requirements on insurance organizations, is currently being considered by the State Duma's Committee on Budgets, Taxes, and Finances for subsequent submission to the lower parliamentary chamber.

Question 108

Re. Question 274 (WT/ACC/RUS/9) Can a foreign insurer provide insurance to Russian residents if the resident seeks such policy coverage and where there has been no solicitation of business on the part of the foreign insurer? If not, what is the rationale for limiting provision of insurance services to commercial presence in Russia?

The Russian insurance legislation imposes restrictions on the establishment of insurance joint ventures in the form of a 49 per cent limit on the foreign investors' ownership interest in the charter capital of such a company. Does Russia intend to maintain this restriction in the medium term?

Answer

1. In accordance with Russian insurance legislation, residents wishing to go into the business of insurance on the territory of the Russian Federation must by all means register in accordance with the statutory procedure and obtain an insurance licence in accordance with the procedure stipulated by the "Conditions for the Licensing of Insurance Activities on the Territory of the Russian Federation" (No. 02-02-08, dated 15 May 1996), as approved by the Russian Federal Service for Insurance Supervision. Non-residents must meet similar requirements.

It is also noteworthy that legislation of the Russian Federation does not prohibit its nationals to insure their property interests abroad by concluding an insurance contract outside the Russian Federation, in which case payments of insurance premiums and payments of insurance indemnity in the event of an insured accident must be effected by the Russian insured and the foreign insurer outside Russian territory.

2. The ceiling of 49 per cent, established by Russian legislation on foreign equity participation in an insurance company in Russia, is still effective.

Under the Partnership and Cooperation Agreement, signed by the Russian Federation and EU countries in May 1994, Russia is to lift quantitative restrictions on foreign involvement in the charter capital of insurance organizations within 5 years after the signing of this Agreement.

Question 109

Re. Question 278 (WT/ACC/RUS/9) Could the reply given in answer to this question be further clarified? The response states that there are "currently" no legal grounds to prohibit insurers involved in life insurance from offering non-life insurance. Are there any plans to mandate such separation?

Answer

There are currently no legislative requirements distinguishing between insurers providing life insurance and those providing other types of insurance.

The draft law "On Changes and Additions to the Russian Federation Law on Insurance" contained provisions establishing such differentiation, but was vetoed by the Russian President and is undergoing review.

Question 110

Re. Question 279 (WT/ACC/RUS/9) If the direct branches of foreign insurance companies are not allowed to carry out insurance business, what are they allowed to do?

Answer

As noted, branches of foreign insurance companies may not engage in such insurance operations which require appropriate licences. Branches of foreign insurance companies may engage in those activities which apply to risk assessment, damage assessment, and the like, and which are classified under GATS as services auxiliary to insurance.

Question 111

Re. Question 283 (WT/ACC/RUS/9) Does the Russian Federation envisage multilateralization of the liberalising measures agreed in its partnership Agreement with the EC?

Answer

The answer to this question will be given in due course in the initial offer for schedules of exemptions from the Most Favoured Nation obligations in accordance with Article II of GATS and the Annex on Article II exemptions. See also Answer 91 herein.

Question 112

Re. Question 286 (WT/ACC/RUS/9) Please identify agreements establishing reciprocity measures in the insurance sector.

We note that the responses given in answer to many of the questions involve the principle of reciprocity e.g., in questions 286 and 296. Will Russia consider replacing this notion with an MFN approach in regards to Russia's schedule of commitments in the financial services sector?

Answer

The reciprocity principle was a basis for Partnership and Cooperation Agreement with the EC.

The issue of reciprocity will be considered in the process of the accession negotiations with due consideration taken of the commitments of WTO members on financial services.

Question 113

Re. Question 288 (WT/ACC/RUS/9) Is there any possibility of the reciprocity provision with respect to the licensing of foreign banks being removed in the course of accession negotiations?

Answer

At present, Russia's legislation on market access in the banking sector provides for the possibility of reciprocal measures to other countries. During the accession negotiations and in bilateral negotiations, the Russian side will take into consideration the level of liberalization of other countries' banking sector.

Question 114

Re. Question 289 (WT/ACC/RUS/9) While the 12 per cent ceiling on foreign capital participation in the banking sector has not yet been exceeded, would Russian authorities consider a staged liberalization of this ceiling over time?

Answer

The Russian party does not consider it timely to discuss raising the 12 per cent ceiling on foreign banking capital participation in the banking sector of the Russian Federation, since this ceiling has never been attained.

Question 115

Re. Question 290 (WT/ACC/RUS/9) Russia has indicated that "the granting of a licence to open a foreign bank branch or joint venture bank is subject to case-by-case examination". From previous information supplied to the Working Party, we assume that such an examination would take into account the foreign equity ceiling, the reciprocity provisions, the minimum capital requirement for foreign banks, and the financial position and business reputation of the applicant in terms of a rating given by an organisation such as Moody's or Standard and Poor. Can Russia confirm whether these are the criteria used or are other factors also taken into consideration?

The response given to this question indicates that a "case-by-case" examination is done in the context of the granting of a licence to open a foreign bank branch. In the interests of transparency, can Russian elaborate as to whether there are administrative guidelines that are followed, and if so, what they are?

Answer

The Bank of Russia issues licences to establish banks with foreign equity participation in the Russian Federation with due regard for the following:

- the order in which corresponding applications were filed;
- the names, financial standings, and business reputations of the applicants (preference is given to those applicants which are banks according to the legislation of their country of location and which do brisk business with banks of the Russian Federation); and
- the geographical location of the applicants and the nature of bilateral relations between the Russian Federation and the country where the applicants are based.

The minimum contribution by a foreign founder of a bank whose charter capital consists more than 50 per cent of nonresidents' assets may not be less than the equivalent of US\$ 2 million at the exchange rate quoted by the Bank of Russia on the day of payment.

Minimum charter capital requirements for newly-established banks whose charter capital consists more than 50 per cent of nonresidents' contributions equal 5 million ecus.

Russian branches may be opened by only those nonresident banks which have sturdy financial positions and unblemished business reputations. Preference is given to those nonresident banks whose short-term obligations are rated no lower than prime-1 according to the IBCA, Moody's, or Standard and Poor ratings.

A bank with more than 50-percent foreign equity participation is required to obtain a separate licence from the Bank of Russia each time it opens another branch in the Russian Federation.

The capital assigned by a nonresident bank to its branch opened in the Russian Federation may not be less than the equivalent of US\$ 5 million at the exchange rate of the Bank of Russia on the day of payment. It is noteworthy that preference is given to the establishment in the Russian Federation of subsidiary banks.

The Bank of Russia may, by agreement with the Russian Government, impose restrictions on banking business by lending institutions with foreign equity participation and by foreign banks' branches if the corresponding foreign countries have imposed restrictions on the establishment and operation of banks with Russian equity participation and Russian banks' branches.

Question 116

Re. Question 292 (WT/ACC/RUS/9) Have the laws "on the Central Bank of the Russian Federation (Bank of Russia)" and "On Banks and Banking Activity" been made available? Could Russian officials provide brief synopses of these?

Answer

Federal Law No. 65-FZ "On Amending the RSFSR Law On the Central Bank of the RSFSR (The Bank of Russia)" of 26 April 1995 (with amendments of 31 July 1995) and Federal Law No. 17-FZ "On Banks And Banking Activity" of 3 February 1996, have been made available. A complete unofficial English translation has been provided to the WTO Secretariat.

Question 117

Re. Question 295 (WT/ACC/RUS/9) It is stated that it is necessary for a foreign subsidiary bank to obtain a separate licence each time it wishes to open a new branch. Does this requirement also apply to the opening of a representative office?

In certain circumstances, the Bank of Russia may impose restrictions on the banking services provided by lending institutions with foreign equity participation and foreign bank branches. What are the principal restrictions envisaged?

Answer

Foreign banks may only open their representative offices on the territory of the Russian Federation on the basis of an authorization granted by the Central Bank of Russia.

Federal Law No. 17-FZ "On Banks and Banking Activity" dated 3 February 1996 empowers the Central Bank to impose, by agreement with the Government, restrictions on banking business by lending institutions with foreign equity participation and by foreign banks' branches. The substance of the restrictions depends on measures being taken in the respective countries towards Russian lending institutions, on financial market conditions, and on the economic situation in Russia.

Question 118

Re. question 298 (WT/ACC/RUS/9) The Russian Federation has advised that "the Bank of Russia may establish additional prudential requirements, as well as additional requirements regarding procedures for the submission of reports and the approval of governing bodies, lists of authorized banking transactions, and minimum capitalization requirements for newly-registered banks and foreign bank branches". We would appreciate clarification of what these additional requirements involve.

Answer

Pursuant to the Federal Law No. 17-FZ "On Banks and Banking Activity" dated 3 February 1996, the Bank of Russia is entitled to establish additional requirements on lending institutions with foreign equity participation and foreign banks' branches (i.e. requirements different from those made on wholly Russian-owned lending institutions) with respect to prudential norms, reporting procedures and management approval, lists of authorized banking transactions, and the minimum size of the charter capital of newly-registered lending institutions with foreign equity participation and newly-registered branches of foreign banks. See also Answer 117 herein.

Question 119

Re. Question 312 (WT/ACC/RUS/9) What type of special tourism-related education is required to meet this criterium for obtaining a licence for travel agency?

Answer

Russian Government Resolution No. 1222, dated 12 December 1995, which defines criteria for licensing tour operators, requires, among other things, that a prospective licensee should have at least one staff professional with specialized training qualifications in the field of tourism or an employment record of at least three years with a travel agency. The Resolution does not further specify the kind of required training. As an application for a licence is considered, any training certificate,

or an employment record, is taken into account. This criterion may take on greater significance if the Russian Federation State Committee for Physical Culture and Tourism, which is empowered to revoke licences, receives a complaint about a travel agency's practices.

Question 120

Re. Question 315 (WT/ACC/RUS/9) In the response to question 315, Russia has stated that it is an observer in the Negotiating Group on Maritime Transport Services. Does Russia intend to complete the questionnaire on maritime transport services?

Answer

Russia will consider this issue after the resumption of the negotiations on maritime transport services under the auspices of the WTO.

Question 121

Re. Question 316 (WT/ACC/RUS/9) In responding to question 316, Russia has stated that there is a network of repair and maintenance companies for the overhaul and servicing of aircraft, engines and accessories. Are these services provided by the government, or by private companies, or by both? If both, do the terms under which they operate differ? If so, how?

Answer

Russia has a network of enterprises providing repair and maintenance services for aircraft, engines, and ancillary equipment. These service providers include both State-owned enterprises and private companies. The larger part of such private companies currently are in the maintenance of aircraft, engines, and ancillaries, while State-owned enterprises are mostly concerned with their repairs. Under applicable legislation, the business and production operations of civil aviation and aircraft-building enterprises, regardless of their ownership status, are subject to governmental regulation, which includes the certification of all legal entities and individuals undertaking any type of activity related to the manufacture, repair, and maintenance of aviation equipment and to flight safety.

Question 122

Re. Question 318 (WT/ACC/RUS/9) In the answer to question 318, it is stated that in order to obtain a licence to provide inland waterway transportation or maritime transportation, the applicant must have an "approved list of services supplied to the market". How does an applicant obtain an approved list of services? Are licences granted on a discretionary basis?

Answer

Russian Government Resolution No. 840, dated 23 August 1993, contains a list of services subject to licensing on this market. This list is issued to applicants upon their filing of applications for a licence to provide transportation and forwarding services. After being approved by an applicant, the list is returned to the licensing agency. Licences are issued on a case-by-case basis, the basis for granting the licence is found in Regulation For Licensing Carriage, Forwarding and Other Activities connected with Transportation and Maintenance of Transport Vehicles In the Russian Federation (endorsed by Decision of the Government of the Russian Federation No. 118, dated 26 February 1992, as amended) which has already been provided to the WTO Secretariat.

Question 123

Re. Question 324 (WT/ACC/RUS/9) In paragraph 2 on page 103 Russia provides information on different periods of licences issued by the Russian Transport Inspection Service. We are of the view that 3 months is not a sufficient period for offering effective services in this sector. Please provide more clarity what are criteria for obtaining longer validity of a licence in this sector.

Answer

A licence for a period of three months is issued at the request of an applicant, in order to obtain a longer-term licence, the requested period for up to 5 years is to be indicated in the application. The objective criteria for denying a licence (inadequate vocational training, submission of false information, etc.) are indicated in Regulation For Licensing Carriage, Forwarding and Other Activities connected with Transportation and Maintenance of Transport Vehicles In the Russian Federation (endorsed by Decision of the Government of the Russian Federation No. 118, dated 26 February 1992, as amended) which has already been provided to the WTO Secretariat.

Question 124

According to our information, several providers of construction and engineering services have reported complaints on non-transparent and cumbersome system of charges and fees being imposed on foreign operators in Russia. Several different charges, including value added tax, excise tax, transportation tax and other local taxes amount altogether to about 45 per cent of the value of services offered which undermine competitiveness of foreign service operator. Please clarify the system of charges imposed on foreign construction services operators and particularly, confirm that foreign construction services operators are treated on non-discriminatory basis.

Answer

Procedures for the payment of taxes, dues, and other obligatory deductions by foreign nationals and legal entities are set forth in Russian tax legislation. Foreign nationals and legal entities undertaking production and other commercial activities on Russian territory are subject to taxes, dues, and other obligatory deductions on a par with Russian nationals and legal entities. Legislation provides for no discriminatory treatment of foreign nationals and legal entities operating in the construction industry.

Question 125

Re. Question 347 (WT/ACC/RUS/9) In which sector of industry has the Russian Federation initiated an investigation to be conducted in conformity with the provisions of Article XIX of GATT 1994 and the WTO Agreement on Safeguards in order to determine whether increased imports are causing serious injury to the position of a specific industry?

Answer

Since Russian Federation is not a party to respective WTO instruments, investigations against injurious importation of products and possible introduction of safeguard measures are based on respective provisions of Russia's international trade agreements and its internal legislation. At present such investigations are conducted in connection with importation of white sugar, some alcohol and vodka, some textiles and electric lamps.

See more detailed information in documents WT/ACC/SPEC/RUS/1 and WT/ACC/SPEC/RUS/2.

Question 126

Re. Question 376 (WT/ACC/RUS/9) Can foreign law firms or foreign lawyers provide legal services on a third country law other than Russian and home country law?

Answer

Paragraph 2 of Clause 3 of the Regulations on the Licensing of the Provision of Paid Legal Services on the Territory of the Russian Federation, approved by Russian Government Resolution No. 344, dated 15 April 1995, mandates that persons having a foreign country's certificate of higher legal education may supply paid legal services in the form of consultations on the legislation of the foreign country. Existing Russian legislation does not yet regulate conditions for the provision by foreign law firms and foreign lawyers of legal services in the form of consultations on third-country legislation. See also Answer 101 herein.

Question 127

What are the criteria of economic test for foreign service providers?

Answer

When issuing to an employer a licence for foreign employees, the Russian Federal Migration Service is obliged to consider the related conclusion of the administration in the region where the foreigners will be employed. This applies not only to service providers, but to any and all foreigners being hired. When preparing their conclusions, local administrators are guided by a variety of considerations, which include, as a rule, unemployment levels in their areas (comprising both overall unemployment and unemployment in the economic sector concerned), the extent which demand for such services has been met, the availability of social services in the region, and other practical factors. This was also described in WT/ACC/RUS/6: Regime of Regulations of Trade in Services, page 2 on the issuance of permits based upon an economic needs test. See also Answer 88 herein.

Question 128

Since there is no explanation provided on the construction services, does this mean that the Russian Federation does not want to open construction services to foreigners? And does the Russian Federation not want to bind commitments in this sector?

Answer

The Russian Federation will submit an initial offer of a schedule of specific commitments for services in due course.

Question 129

Please provide information on any services provisions contained in Russia's preferential trade agreements.

Answer

Information to this question will be given in due course in the initial offer of a schedule of exemptions from the Most Favoured Nation obligations in accordance with Article II of GATS and the Annex on Article II exemptions. See also Answers 91 and 111 herein.

Question 130

At the last meeting of the Working Party, indications were given that the Russian parliament was considering new rules in the area of securities. Have there been any developments in this regard (i.e., have new laws, regulations or rules governing securities operations been passed? If so, what do they cover?)

Answer

The Federal Law FZ-39 "On Securities Market" was passed by the Russian Federation legislature in April 1996. This law covers all aspects of activities in the securities market including the definition and scope of professional activities, issuance of securities, information and disclosure, advertising, regulation and licensing requirements. Licences issued prior to the adoption of this law are valid for one year after its final adoption.

Question 131

With which countries has Russia signed bilateral maritime transport agreements? Could Russia provide specific information on the types of maritime services that are covered and any preferential treatment that is accorded to other countries?

Answer

Russia has signed bilateral sea shipping agreements with the following countries: Algeria, Angola, Argentina, Egypt, Belgium, Bulgaria, Brazil, Britain, Hungary, Vietnam, Ghana, Guinea Bissau, Greece, Georgia (the agreement with it still has to be ratified), Denmark, Zaire, India, Iraq, Spain, Italy, Cyprus, China, Cuba, Latvia, Libya, Lithuania, Luxembourg, Madagascar, Malaysia, Malta, Morocco, Mexico, Mozambique, the Netherlands, Norway, Cape Verde Islands, Pakistan, Poland, Portugal, Rumania, Sao Tome e Principe, Seychelles, Syria, the United States, Tunisia, Turkey, Ukraine, Finland, France, Germany, Czech Republic, Slovakia, Sweden, Sri Lanka, Ethiopia, and Jamaica. The merchant shipping agreements have virtually identical contents. They regulate shipping policies, ship and crew treatment, and cooperation between the signatory countries.

Question 132

No specific information has been provided on other key services sectors such as construction services and environmental services. Are foreigners permitted to provide these services in Russia? If so, what types of licensing requirements are in place? Are foreign firms and national firms treated on the same basis?

Answer

At present, foreign companies may provide services in the sphere of construction and environmental services in accordance with the effective legislation which applies on a non-discriminatory basis.

Resolution No. 351 of the Government of the Russian Federation "On Approving Regulations for Licensing Construction Activities", dated 25 March 1996, establishes procedures for obtaining licences and complying with common licensing requirements for domestic and foreign companies. To receive a licence, the applicant must submit, in addition to an appropriate application, copies of his constituent documents and registration certificate, information on the qualifications of his office employees and

workers, technical base, quality control procedures, labour protection schemes, environmental and fire protection schemes, a certificate of insurance against construction risks.

With regard to environmental protection schemes, rules and procedures for obtaining licences have been established in compliance with Resolution No. 168 of the Government of the Russian Federation "Regulation on Licensing Specific Types of Activities in the Sphere of Environmental Protection", dated 26 February 1996, and in compliance with Order No. 282 of the Ministry for Protection of Environment and Natural Resources of the Russian Federation "On Licensing Procedures in Respect of Specific Types of Activities in the Sphere of Environmental Protection", dated 18 June 1996. The specified rules and procedures for receipt of licences apply both to individuals and legal entities that are engaged in operations in the sphere of environmental protection in the territory of the Russian Federation.

To obtain appropriate licences, the applicant must submit, in addition to the customary set of documents required for licence issuance, the following forms which have been elaborated by the Ministry for Protection of Environment and Natural Resources of the Russian Federation:

- "Information on the qualifications of enterprise employees and retained specialists";
- "Information on the current status of the technical base".

Prior to the decision to issue an appropriate licence, the licensing agency: performs an expert examination of all submitted documents to establish whether such materials are complete and accurate and whether the licensed activities are performed in compliance with such ecological requirements which have been established for the applicant in the normative documents; establishes the effective licence terms (licence terms); arranges, if need be, additional expert examinations (inclusive of independent examinations) and ecological audits.

Question 133

Please explain the criteria against which requests for the employment of foreign workers are assessed and how the requirement on companies to pay the equivalent of the minimum wage to the authorities when they employ a foreign worker is operated? Is the amount equal to the minimum wage to be paid for as long as that person is employed, or is it a one-off payment?

Answer

See Answers 88, 89, and 90, herein. In the course of review of an employer's application, due regard is given for the availability of comparable professionals on the given territory and the absence of the possibility of redistributing labour resources from other regions and ensuring equal pay arrangements for foreign and Russian employees. Authorizations to hire foreign nationals are issued to employers by migration services upon presentation of copies of payment orders confirming payment of the authorization fee. Authorization fees are payable by employers on a one-time basis.

Question 134

How do the streamlined procedures for the approval of the employment of key personnel by foreign investors operate?

Answer

The procedure whereby key personnel of companies with foreign equity participation obtain work permit confirmations differs from the procedure for obtaining authorizations to hire and use foreign

employees in that it does not require the submission of any proposal (conclusion) from the executive authority of the regional government where the respective foreign nationals will be employed. Decisions to issue work permit confirmations are taken directly by the corresponding region's migration service. An employer granted such a confirmation is charged a fee equal to 15 times the minimum monthly wage established by legislation of the Russian Federation.

Question 135

Please explain the concepts of a bank credit organisation and a non-bank credit organisation. What are the different functions of each type of institution?

Answer

A bank is a lending institution having the exclusive right to undertake all of the following banking transactions:

- the attraction of cash deposits from individuals and legal entities;
- the investment of such deposits in its own name and at its own expense for a fixed term, on a repayment basis, and for a fee; and
- the opening and maintenance of bank accounts for individuals and legal entities.

A non-bank lending institution is a lending institution entitled to undertake the individual banking transactions listed in Article 5 of the Federal Law No. 17-FZ "On Banks and Banking Activity" dated 3 February 1996. The permissible combinations of banking transactions are established by the Bank of Russia.

Question 136

What is Russia's intention with regard to the requirements in the banking sector for reciprocity from other countries? Please state whether or not such requirements will be maintained.

Answer

At present, Russia's legislation on market access in the banking sector provides for the possibility of reciprocal measures to other countries. During the accession negotiations and in bilateral negotiations, the Russian side will take into consideration the level of liberalization of other countries banking sector.

Question 137

Foreign air carriers operating in this services sector currently face charges for over-flying Russia in addition to standard air traffic-control charges. We understand that Russian airlines are not subject to these charges. Please indicate what plans Russia has to introduce national treatment in this matter.

Answer

The system of charges for aeronavigational services in place in the Russian Federation is consistent with bilateral intergovernmental agreements on air traffic with foreign countries, and the Chicago Convention on International Civil Aviation (Article 15).

Suggestions that foreign users of Russian airspace are subject to any additional inconsistent charges are erroneous. This information is being provided for purposes of clarification, since the subject of Question 137 does not presently appear to fall within the scope of GATS.

Question 138

Please list all commitments in bilateral or regional agreements that Russia believes could require it to take MFN exemptions in its GATS Schedule of commitments.

Answer

The answer to this question will be given in due course in the initial offer of a schedule of exemptions from the Most Favoured Nation obligations in accordance with Article II of GATS and the Annex on Article II exemptions. See also Answers 91 and 111 herein.

Question 139

Please provide information on the types of business where such a licence is required, those sectors where licences will not be granted to foreign enterprises or to partially foreign funded firms.

Answer

Information on the types of business in where such a licence is required has been given in the document WT/ACC/RUS/6, page 3. Additional information will be given in due course in the initial offer of a schedule of specific commitments.

Question 140

Please describe the criteria applied to obtain a business licence in sectors that require it.

Answer

Answers to this question have been previously provided in Answers 92, 93, 99, 101, 102, 106, 115, 132 herein and in Answers 201, 219, 223, 226, 227, 232, 244, 257, 312, 317, 318, and 324 in WT/ACC/RUS/9 and in Answers 248 and 250 in WT/ACC/RUS/9/Add.2.

Question 141

Please describe the role of sub-federal authorities, e.g., in the autonomous republics and oblasts, in permitting the establishment or utilization of services provided by foreigners, in establishing labour restrictions on establishment or operation of a service firm, in charging labour fees on the use of foreign labour, and in licensing enterprises.

Answer

Sub-federal authorities are responsible for issuing permits for the establishment of companies, including those with the participation of foreign capital, in many services sectors except where such permits are issued only by the federal authorities or the Central Bank. In some cases, such as the licensing of labour migration, permits are issued by federal authorities on the basis of recommendations by sub-federal authorities.

Question 142

Please outline how Russia enforces priority use of domestic labour in enterprises. How is it established whether there is a sufficient labour need, that workers can enter to staff up services firms?

Answer

When examining applications from employers for authorizations to hire foreign employees, the executive authorities of the regional governments take into account the level of unemployment in the given areas, the availability of comparable domestic employees, the possibility of moving labour resources over from other Russian regions, and other factors, including the economic effectiveness of employing foreigners.

TRADE IN GOODS

Question 143

The response to Question 4 (WT/ACC/RUS/9) indicates that certain alcoholic beverages have been added to the list of goods subject to price regulation at the federal level.

- (a) What is the purpose of this price regulation? How were the prices established?**
- (b) Are the minimum prices for domestic and imported products the same? If not, please address this difference in light of the national treatment provisions of Article III of the GATT 1994.**

Answer

- (a) Price regulation has been extended to alcoholic products having a strength of 25-40 degrees due to the fact that both distilleries and other enterprises in the food industry have begun to produce these types of alcoholic products.

In order to make vodka and liquors more competitive and increase budget revenues, the Russian Government has decided (Resolution No. 915 "On Changes and Additions to Norms and Rules Governing the Production and Turnover of Ethanol and Alcoholic Products," dated 31 July 1996) to extend the list of alcoholic products subject to price regulation.

- (b) Pending

Question 144

In response to question 12 and question 64 (WT/ACC/RUS/9), Russia states that is applying an expansive interpretation to the working definition adopted in the WTO Understanding on the Interpretation of Article XVII and that there may be a limited number of enterprises which should be notified. The response also indicates that it is collecting the necessary data to complete the questionnaire on State trading enterprises.

We appreciate Russia's efforts to review and identify possible State trading enterprises under the new WTO Understanding. This is a good first step, and will greatly assist the Working Party in completing this aspect of Russia's WTO accession process.

- (a) **In this context, please elaborate on the "expansive" interpretation used by Russia of the working definition adopted in the WTO Understanding on the Interpretation of Article XVII, and on how the government determines which entities remain/become State trading companies.**
- (b) **We request that Russia prepare draft notifications for the ten entities listed as State trading enterprises in the response to question 12 (WT/ACC/RUS/9) for review by the Working Party.**
- (c) **Does Russia have a time frame in mind for completion of its review of its remaining entities to determine if these entities should be notified to the WTO Secretariat under Article XVII?**
- (d) **What special or exclusive rights or privileges are granted to the enterprises list in the response to question 12 (WT/ACC/RUS/9) What aspects of these enterprises distinguish their activities from those of other State-owned firms?**

Answer

Answers to questions about special and exclusive rights listed in the answer to question 12 in WT/ACC/RUS/9 will be given during preparations for the Working Party's meeting expressly devoted to issues related to State trading enterprises. Russia will complete its analysis and finalize the drafts of corresponding notices prior to its accession to the WTO. The term "expansive" is a misprint and should be read "extended".

Question 145

The response to question 21 (WT/ACC/RUS/9) refers very generally to the "system of government regulation of industry." Would Russia please provide further information and/or copies of legislation describing that "system"?

- (a) **What specific incentives are offered to investors?**
- (b) **What types of federal programmes in industry are envisioned?**

Answer

(a) The requested documents have already been provided to the WTO Secretariat. See the consolidated list of legislative texts, submitted to the WTO Secretariat (WT/ACC/RUS/12). Information on the special incentives for investors is described more fully in Answers 4 and 7 herein (WT/ACC/RUS/13).

(b) The Russian Federation Law No. FZ-128 "On the list of Federal goal-oriented programmes and federal budgetary expenditures for particular government agencies in 1996 year" dated 23 September 1996, approves the list of the federal programmes adopted for fulfilment in 1996. This list includes, in particular, the following programmes:

1. Defence industry conversion (1995-1997);
2. Space programme of Russia (up to 2000);
3. Fuel and energy (1996-2000);
4. Electronics development in Russia (1994-2000);
5. Russia's merchant marine revival (1993-2000);
6. Russia's civil aircraft development (1994-2000);

7. State protection of machine-tool construction (1993- 1998);
8. Machine-tool construction for the agro-industrial complex of Russia (1993-1997);
9. Russia's raw-material base development (1994-2000);
10. Improvement of Russia's soil fertility (1996-2000);
11. Protection of Russia's forests; and
12. Competitiveness improvement of domestic products.

Question 146

Concerning reply 24 (WT/ACC/RUS/9), we would like more information on how domestic prices are established. In particular, we are interested in how Russia determines the "mark-up" for goods with price controls. By "mark-up" we are referring to the difference between international prices (relatively low) and domestic Russian prices (relatively high) for imported goods. When the domestic price is higher than the international price, the imported product will generally be sold at a higher price than the price at which it is imported. We note that this may not be the case in Russia on the average, particularly in situations where domestic prices are lower than world prices (as noted in reply 37), but mark-ups may exist for particular products or in particular markets.

- (a) We would appreciate some more information on how the mark-up is determined and who collects it.**
- (b) Are there any governmental policies that affect this mark-up, and who in the Russian marketplace receives this mark-up?**

Answer

(a) In keeping with Russian Presidential Decree No. 236 "On Price Liberalization Measures", dated 3 December 1991, a transition has been under way in Russia since 2 January 1992, to free market prices to respond to the influence of supply and demand, including prices for agricultural products procured by the government. As a result of this liberalization, the domestic market prices in Russia's farming sector and comparable world prices have been drawing more closely together. For example, in 1995, domestic market prices for agricultural staples, as estimated by the Russian Ministry for Agriculture and Food, reached 30-75 per cent of import prices for grain crops, 89 per cent of such prices for sunflower, 64 per cent for potatoes, and 32-68 per cent for other vegetables, and neared the level of prices for imported hogs, poultry, and milk. In these conditions, the government does not set any mark-ups on domestic market prices for agricultural products to even them out with prices for agricultural imports.

(b) Under applicable legislation, the limited remaining State regulation of prices and rates is carried out in Russia with respect to products of natural monopolies such as the power generation industry, the gas distribution network, the pumping, transfer, and bulk transportation of oil, railroad freight shipments, port and ice-breaker services, and basic communications, as well as products purchased exclusively or predominantly by the State. Prices for imported products, with the exception of alcoholic beverages, are not regulated. See also answer 147 herein.

Question 147

Concerning replies to questions 27 and 28 (WT/ACC/RUS/9), we note that minimum prices are "obligatory only for enterprises and organizations engaged in purchases for State reserves" and purchases by the Federal Food Corporation (FFC) go for use of certain special consumers.

- (a) **Could Russia explain the relation between the information provided in Question 27 and the information provided in Question 28.**
- (b) **In particular, does the FFC use minimum prices when making its purchases? If so, could Russia explain why it paid approximately half the minimum price established in 1996 for purchases in 1995 of milk and meat?**
- (c) **Are minimum prices used for potatoes and vegetables (products purchased by the FCC but not on the list of minimum prices for 1996)?**
- (d) **Please address the use of such minimum prices for purchases of imports in the context of the provisions of the WTO Agreement on Customs Valuation, i.e., are these prices used as the basis for customs valuation of the imported goods, and if so, is not this in conflict with the provisions of the Agreement?**

Answer

- (a) The answers provided in response to questions 27, 28 and 37 in WT/ACC/RUS/9 are consistent.
- (b) In 1995, the FFC purchased milk and meat at minimum guaranteed prices established that year. In 1996, such minimum guaranteed prices have been, with account taken of inflation, higher than in 1995.
- (c) Such products are bought by the FFC, but they are not included on the list of products covered by minimum prices for 1996.

Potatoes and other vegetables are not on this list of products acquired by the FFC at minimum guaranteed prices. Prices for potatoes and other vegetables were liberalized long before the issuance of the Russian Presidential Decree of 3 December 1991.

- (d) Minimum guaranteed prices do not serve as a basis for the customs valuation of imported products.

Question 148

Can Russia provide information on the quantity of production eligible to receive minimum prices?

Answer

This information was provided for the third meeting of the Working Party in the answers to questions 27, 31, 39, 115, 28, 43, 57, 58, 114, and 119 of WT/ACC/RUS/9.

Question 149

Regarding minimum prices required for alcoholic beverages, the differential maintained in the prices fixed for domestic and imported alcohol has been linked to the difference in excise taxes applied to imported goods and domestic and CIS products.

What progress has been made in equalizing the minimum price for western imported alcoholic beverages and CIS and domestic products?

Answer

Pending.

Question 150

The response to question 40 (WT/ACC/RUS/9), pertaining to AQ 116 (WT/ACC/RUS/4), states that the answer is pending regarding the inconsistent statement that the draft budget provides for support only to the coal industry.

Please provide a response to this inconsistency if one is now available.

Answer

See answer 40 in WT/ACC/RUS/9/Add.2.

Question 151

In previous documentation, Russia indicated that there was a new draft law "on Basic Principles of taxation" which redefines the jurisdiction of federal and sub-federal authorities in matters of taxation, as well as the responsibilities of taxpayers and tax administration bodies.

- (a) What is the status of this draft law?
- (b) Would Russia please outline its provisions, with special reference to its effect on existing tax provisions?
- (c) To what extent will this law address Russia's two-tier excise tax system for imports and domestic products, VAT exemptions on similar domestic and imported products, and regional taxes on imports?

Answer

(a) The Council of the Federation rejected the draft law "On entering changes into the Law of the Russian Federation "On the principles of tax system in the Russian Federation" passed by the State Duma on 12 July 1995. The Government of the Russian Federation, then, required the State Duma to reconsider the draft law.

(b) The draft law passed by the State Duma on 12 July 1995 provided for the change of the title ("On general principles of taxes and charges in the Russian Federation"), the structure of the existing Law "On the Principles of Tax System in the Russian Federation", and presented its new version. This draft law attempted to define the essence of the general principles of taxation in the Russian Federation, specified the lists of taxes and charges applicable in the Russian territory (open lists of regional and local taxes and charges were proposed), determined the procedure for entering amendments into legal acts on taxes and charges, adjusted the effective procedure of exercising tax control and appealing against acts (failure to act) of tax authorities, stipulated provisions for some mitigation of sanctions for tax violations. Taking into account that the draft law had serious weaknesses, and that the work on modification of the said law ceased to be imperative in connection with the development of a regulatory act systematizing tax legislation (draft Tax Code of the Russian Federation) coming to its final stage; therefore, the work on the preparation of the Draft Tax Code was considered as a priority task.

(c) The Draft did not regulate the tax treatment with respect to specific taxes, because in accordance with effective legislation this matter is to be regulated by respective federal laws and other regulatory acts on taxes.

Question 151A

Russia's response to question 341 (WT/ACC/RUS/9) provides a status report of the draft Tax Code. We understand that the draft General Part of the Tax Code (Part 1) has been rejected on a first reading and resubmitted to a committee for further revision.

What is the present status of the draft Part 1 of the Tax Code, as well as drafts of Parts 2, 3, and 4?

Answer

The general part of the draft Tax Code introduced by the Government of the Russian Federation to the State Duma in February 1996 was accepted for consideration by the State Duma at the first discussion with the formation of the Commission for conciliation. The draft Tax Code was not submitted for the first reading in the State Duma. The Commission for conciliation having considered in July 1996 the conceptual issues of the draft Tax Code recognized the necessity of adopting the draft Tax Code to ensure consistency of the tax regulatory framework and uniform legal procedures, and also regarding the expediency of elaboration of exhaustive list of federal, regional and local taxes and charges. A special working group was charged with the development of specific wording with respect to the decisions agreed upon by the Commission.

The Government of the Russian Federation is also considering parts II-IV of the draft Tax Code of the Russian Federation which specifically defines its general part with respect to federal, regional and local taxes and charges. In order to promote a stable and efficient tax system which could be used as one of key instruments of government regulation of economic processes, a Commission of the Government of the Russian Federation for the improvement of tax legislation has been established as a coordinating body. This Commission is intended to ensure the development of a stable legal framework of the tax system that would include efficient regulation of the rights and obligations of the subjects of tax relations, the establishment of mechanisms and procedures for their interaction, creation of conditions for the payment of taxes in full by taxpayers, division of competence between the bodies exercising tax control, and also the preparation of calculations and social and economic forecasts of implications of the proposed changes to the tax system.

It is intended to consider, by the end of 1996, parts II-IV of the draft Tax Code and to introduce them early the next year to the State Duma.

Question 152

The response to question 53 (WT/ACC/RUS/9) cites the new Federal Law No. 23-FZ "On Excise Duties" of 7 March 1996, which provides a significant step toward a more uniform system of excise tax assessment with respect to domestic and imported items, and application of a single tax rate. The response to question 102 states that a new draft Federal Law provides for the introduction of the same excise rates for domestic and imported goods.

(a) **The response to question 53 is unclear as to when the unification of excise taxes will be complete. What is the status of the new draft Federal Law? Please outline its provisions as they relate to Article III of the GATT 1994 (national treatment in the application of domestic taxation) and the WTO Agreement on Subsidies and Countervailing Measures.**

- (b) **Please list, by HS tariff line number, the goods subject to excise taxes under the new draft Federal Law, and**

Answer

Federal Law No. 23-FZ "On Excises", dated 7 March 1996, provides for the levying of excises on the following products: ethanol from all kinds of raw materials; edible alcohol; wine spirit, vodka, liquors, brandy, sparkling wine, natural wine, and other alcoholic products; beer and tobacco products; jewellery; motor benzine; cars (other than manual-control cars); and individual categories of minerals. The list of excisable products no longer includes car tires, trucks with a carrying capacity of under 1.25 tons, fur products, natural leather garments, cut glass, yachts, launches, hunting rifles, carpets, and rugs.

The full list of excisable products and their rates, along with their HS tariff line numbers, is found in the Law "On Excises", which has been submitted to the WTO Secretariat.

Excise rates on Russian-made excisable products do not exceed 85 per cent (vodka and liquors). Since the taxable turnover for domestic excisable products is determined on the basis of the applicable excise rates and ex-works prices inclusive of excises, while that for imports is determined on the basis of the customs value of the respective goods, which is exclusive of excises, excise rates for some categories of excisable imports (alcoholic products, beer, tobacco products, and cars) are higher than those applied to similar Russian goods. In practice, this means that the excise tax burden on imported products, as a rule, are in aggregate no higher than on similar Russian goods.

Excises on alcohol, wine, vodka, beer, and tobacco products imported into the Russian Federation are currently charged at specific rates which are expressed in fixed monetary units (ECUs) per physical amount of the corresponding goods.

The rate of excises on Russian-built cars stands at 5 per cent and the rates of excises on motor vehicles imported into Russia range between 10-25 per cent, depending on their engine displacements.

The State Duma of the Russian Federation is currently considering a draft law on changes and additions to the Federal Law "On Excises", which provides for a uniform procedure for the levying of excises on Russian and imported products.

Question 153

The response to question 98 (WT/ACC/RUS/9) states that the maximum rate for import customs duties is 30 per cent except for luxury items, tobacco products, alcoholic beverages and arms. The response to question 53 cites the new Federal Law No. 23-FZ "On Excise Duties" of March 7, 1996 which envisages that cars will be subject to an excise tax of 5 per cent and that food items, except for beer, alcohol and tobacco will be exempt from excise tax.

- (a) **Does the 5 per cent excise tax rate on cars apply only to imported items? If not, what is the rate for domestic items? Does the 5 per cent excise tax apply to all motor vehicles?**
- (b) **How are arms treated under the new Federal Law No. 23-FZ?**
- (c) **What are the envisaged excise tax rates for beer, alcohol and tobacco?**

Answer

See Answer 152 herein.

Question 154

The response to Question 51 (WT/ACC/RUS/9) indicates that the VAT is 10 per cent, but in the title of the law referenced in this question, it indicates that the VAT is 100 per cent.

Please confirm that the VAT in Russia is 10 per cent and that the 100 per cent figure is a typographical error.

Answer

The correct figure is 10 per cent.

Question 155

We look forward to receiving a completed submission of Document WT/ACC/4 outlining Russia's agricultural subsidy policies over the last three years. This document should answer many of the questions posed to Russia about support provided to agricultural producers.

We note that Russia has provided useful information in WT/ACC/RUS 9. In this regard, we appreciate the information provided in replies 34, 35, 36, etc. We will compare this information with the more detailed treatment required for WT/ACC/4 as we evaluate Russia's agricultural system. We also look forward to receiving information on Russia's intentions for future agricultural policies, including the gradual replacement of production subsidies with consumer subsidies.

Answer

A document describing the system for subsidizing agriculture on the basis of recommendations contained in WT/ACC/4 has been submitted by the Russian delegation to the WTO Secretariat.

Question 156

The response to question 360 (WT/ACC/RUS/9) references the response to question 38 which addresses calculation of AMS. This would seem to be an incorrect reference.

Please provide a statement regarding Russia's progress on its legislative or regulatory approach to compatibility with the WTO Agreement on Subsidies and Countervailing Measures.

Answer

The Russian Federation, Decree of the Ministry of Foreign Economic Relations, No. 1000 of 21 December 1995 "On the Temporary Procedure for Conducting an Investigation Prior to Introduction of Protective Measures" sets out the procedures for the conduct of a countervailing duty investigation which are generally consistent with the principles of the WTO Agreement on Subsidies and Countervailing Measures. A copy of this Decree has already been provided to the WTO Secretariat. A draft law "On Measures to Protect the Economy or Interests of Russia During Foreign Trade" passed the legislature but was recently vetoed by the President of the Russian Federation due to concerns about its consistency with the obligations of the WTO Agreements. It is currently being reviewed to account for remarks made by the President, and to include all the principal provisions of the WTO Agreement

on Subsidies and Countervailing Measures. For information on the system of domestic support for agriculture in the Russian Federation, see the document and the non-paper on this subject which have been circulated to Members of the Working Party.

Question 157

The WTO TRIMs Agreement prohibits the use of investment measures inconsistent with Articles III and XI of the GATT of 1994. We would appreciate additional information in the following areas:

With regard to the response to question 65 (WT/ACC/RUS/9), could we have a copy of Resolution No. 324 as well?

Answer

Resolution of the Government of the Russian Federation No. 324 “On the Comprehensive Plan of Action for the Government of the Russian Federation for the Implementation in 1996 of the Russian Presidential Address to the Federal Assembly Entitled “Russia for Which We Are Responsible (On the Current Situation in the Country and Major Developments in Russian Policy)” of 22 March 1996 was submitted to the WTO Secretariat.

Question 158

With respect to the response to question 67 (WT/ACC/RUS/9): What is the purpose of the ban on foreign investment in the production of alcoholic beverages?

Answer

Russian legislation at present does not contain any prohibitions on foreign investment in the production of alcoholic drinks.

Question 159

In its response to question 94 (WT/ACC/RUS/9), Russia states that regional executive bodies are authorized to, but have not yet applied measures that, encourage regional export by granting tax privileges to local operators in the form of partial or complete tax holidays with respect to regional or local taxes or with respect to the share of the federal profit tax which is to be paid to the local budget.

- (a) In WT/ACC/RUS/5, Russia stated that Article 71 of the Constitution gives the central government authority to regulate foreign investment regulations, and that no regional law could be lawfully implemented contrary to the laws of the Russian Federation in this area. Does that mean that Russia will ensure that regional measures to encourage exports that are in conflict with WTO provisions?**
- (b) We need information on the implementation of these regional measures. When does Russia anticipate that these measures will be implemented by the regional executive bodies? Do any of these regional proposals include export requirements to qualify for the benefits?**
- (c) Are these measures available to foreign-owned entities as well as to domestic private and public enterprises?**

- (d) **Please discuss these measures in the context of the WTO Agreement on Subsidy and Countervailing Measures (SCM) and Article XXIV:12 of the GATT 1994.**

Answer

The Russian Federation shall continue to support the implementation of only those measures undertaken by regional authorities to encourage exports which are consistent with WTO provisions.

Question 160

We have seen press reports that the Republic of Tatarstan has introduced measures to regulate (among other things) the import and sale of alcoholic beverages that appear to be inconsistent with WTO provisions, e.g., quantitative restrictions and special import taxes.

Can Russia confirm this? How does Russia plan to bring such actions of sub-central authorities within the Russian Federation into WTO conformity?

Answer

Regarding the measures taken by the Republic of Tatarstan, the Russian Delegation advises that such measures are exclusively concerned with the production of alcohol and vodka, and are in accordance with the norms established by the Federal Law "On the State Regulation of Production and Circulation of Ethyl Alcohol and Alcoholic Products."

Question 161

The response to question 98 (WT/ACC/RUS/9) indicates that the maximum tariff rate for most goods is 30 per cent of the customs value.

Could Russia confirm that there are no specific tariff rates on those products which result in an effective tariff rate of more than 30 per cent? That is to say, are there any import products where, if the specific tariff rate is calculated as a per centage of the value of the product, it results in a tariff value greater than 30 per cent?

Answer

The customs import tariff of the Russian Federation for most goods presently does not provide for any ad valorem duty rates in excess of 30 per cent. Examples of limited exceptions include alcohol the rate for which is 100 per cent, and playing cards the rate for which is 40 per cent. Whether any specific tariff rate, calculated as a per centage of the value of the product results in a tariff value greater than 30 per cent will depend upon the entered value of the specific product. See the most up-to-date unofficial English translation of the Customs Tariff of the Russian Federation.

Question 162

Will Russia please supply the schedule of its current applied tariffs for the Working Party in electronic media as well as hard copy?

Answer

The customs tariff of the Russian Federation, including existing rates, has been provided by the Russian delegation to the WTO Secretariat both on hard copy and on diskette.

Question 163

What is the status of Russia's efforts complete the questionnaire on the implementation and administration of the Customs Valuation Agreement?

Answer

The document "Information on the Implementation and Administration of the Customs Valuation Agreement," completed on the basis of WT/ACC/1, Annex 4, has been submitted by the Russian delegation to the WTO Secretariat.

Question 164

With regard to the response to question 103, we appreciate Russia providing a list of foodstuffs subject to the 10 per cent value-added tax. Is this list still current and is the rate of the value-added tax still 10 per cent?

Answer

The list of foodstuffs subject to value-added tax at the rate of 10 per cent, which has been approved by Russian Government Resolution No. 1120, dated 13 November 1995, was amended in July 1996 to extend to sea trout which is now also subject to VAT at 10 per cent (Russian Government Resolution No. 849, dated 18 July 1996).

Question 165

Would Russia please give the Working Party:

- (a) A brief summary of the provisions?**
- (b) A copy of its proposed legislation on safeguard, anti- dumping, and countervailing measures?**
- (c) What types of measures are envisioned?**
- (d) Please provide a status report on the passage of this legislation.**

Answer

The corresponding documents will be submitted if they become law.

Question 166

Concerning recent indications of possible safeguard actions by the Russian Government to protect domestic industries:

- (a) Please clarify if formal safeguard investigations have begun with regard to imported alcoholic beverages, textiles, cash registers, lighting products, or any other imports.**
- (b) If investigations have been initiated, please indicate where a notice of the initiation of investigation was published. Have interested parties - such as the governments of the counties exporting such products, firms, and Russian importers - been notified? If so, when and by what means?**

- (c) **Will the findings and procedures of these investigations be made available to the public, or to the interested parties upon request? Are the results of such safeguard proceedings subject to appeal in Russian courts? If so, please indicate the court of first appeal and outline the appeal process.**

Answer

- (a) & (b) The investigations mentioned in the question have been launched officially. All essential details about them have been published and their results have been submitted to the WTO Secretariat.

Question 166A

Does Russia still apply export duties to trade? If so, to what extent have such measures been eliminated on trade with preferential trading partners?

Answer

Russia does not apply export duties on its foreign trade.

Question 167

Please explain how import licensing is used as part of Russia's SPS regime and a description of the disciplines of the SPS Agreement (e.g., as certain WTO Members have submitted to the SPS Committee).

Answer

The issuance of an import licence for reasons of protecting the health of the population, flora and fauna of the Russian Federation is described in the Import Licensing Questionnaire, WT/ACC/RUS/10. In addition, documents which have been submitted by the Russian Federation for the fourth session of the Working Party on non-tariff measures (WT/ACC/SPEC/RUS/1 and WT/ACC/SPEC/RUS/2) provide a comprehensive listing of all non-tariff measures upon imports.

Question 168

Russia has stated in the response to question 350 that it does not maintain any quantitative restrictions, such as import bans or quotas, on imports.

- (a) **Does Russia use tariff-rate quotas, or any other policy that limits the quantity of imports by other means?**
- (b) **Can Russia confirm that it will not introduce any quantitative measures to restrict imports except in line with the provisions of the WTO?**

Answer

The Russian Federation has not yet applied tariff-rate quotas. The Russian Federation does not plan to employ any quantitative import restrictions contradicting WTO provisions. See also the two separate documents on Non-Tariff Measures which have been submitted to the WTO Secretariat.

Question 169

WT/ACC/RUS/10 provides detailed information on the requirements and procedures for obtaining a licence from MFER. However, there is no information regarding the requirements for obtaining letter of consent for the issuance of the licence from the corresponding ministry (agency). These requirements are important since Russia states in section III.2(d) that “An importer, thus, needs, in practice, to approach consecutively two administrative organs.”

Please provide detailed information on the requirements for obtaining consent from these “corresponding ministries”.

Answer

The requested information will be provided in the course of the Working Party's meeting and bilateral consultations.

Question 170

We understand that Russia is currently drafting several new laws to create a government procurement system.

Please describe the new system with reference to the procedural and substantive provisions of the WTO Agreement on Government Procurement.

We continue to support Russia's accession to the Agreement on Government Procurement in the course of its accession to the WTO.

In the interim, we encourage Russia to use the provisions and procedures outlined in the Agreement as a basis for developing its procurement regime.

Answer

Matters related to the competitive placement of orders have been previously addressed by Russian Government resolutions dealing with purchases for State needs. (See WT/ACC/RUS/2, WT/ACC/RUS/4, and WT/ACC/RUS/9).

A draft of the Federal Law "On the Organization of Tenders for the Purchases of Goods, Building Works, and Services to Meet State Needs" covers those arrangements related to the purchases of goods, building works, and services for State needs which remain unregulated in Part II of the Civil Code of the Russian Federation and in other laws on government purchases.

Although this is only a draft law, if enacted it will lay the legal groundwork facilitating transparent, free, and competitive acquisitions in every economic sector, based on an objective and accountable system. If enacted, the law will establish general legal and economic principles for organizing tenders for the purchase of goods, building works, and services to satisfy State needs. It is based on principles recognized throughout the world, such as the Model Law of the U.N. Commission on International Trade Law, and the GATT Agreement on Government Procurement.

While taking Russia's present conditions into account, the draft law incorporates many of the above documents' underlying ideas. These include, among others, the fundamental principle of open competition during tenders and procedures associated with such specific methods as bidding, double-phase bidding, specialized private bidding, etc.

If enacted, the law should encourage broad-based competition, and guarantee a better value for the government's money.

Question 171

With regard to the response to question 106:

What is the status of the Draft Law "On the Organization of Tenders to Purchase Goods, Construction Works and Services to Meet State Needs"? Please outline the provisions of this draft legislation as it now stands.

If this law has been passed, please provide a copy to the WTO Secretariat.

Answer

See Answer 170 herein.

Question 172

Would Russia please provide the WTO Secretariat with copies of the documents referenced in its reply to question 26:

"Federal Law No 60-FZ, On Product Supplies for Federal Needs, dated 13 December 1994" and "Federal Document On State Projections and Programmes for the Social and Economic Development of the Russian Federation"? (reply 26)

Would Russia also please provide the Working Party with the "Resolution of the Russian Government No. 594, On Implementation of the Federal Law "On Deliveries of Products for Federal State Needs", of 26 June 1995", referred to in its reply to question 111?

Answer

These legislative acts have been provided by the Russian delegation to the WTO Secretariat.

Question 173

The response to questions 107 and 109 (WT/ACC/RUS/9) indicate that the compilation of a comprehensive list of imported items furnished through the Federal Budget and relevant statistics with regard to these purchases are pending.

What is the status of collecting this information? Please provide this information if it is available.

Answer

The responses to Questions 107 and 109 (WT/ACC/RUS/9) do not indicate that this information is being collected.

Question 174

The procurement laws and procedures referenced in replies 26 and 111 (WT/ACC/RUS/9) pertain to procurement for State needs.

Do the same laws and provisions govern how Russian ministries and agencies procure goods and services for their own needs?

Answer

At present in the Russian Federation there are no uniform rules regulating the purchases by State bodies (ministries, institutions) of goods for their own needs. The purchase procedures are specified for every particular case through application of market mechanisms and mechanisms for tender selection of agents of transactions.

Question 175

For situations where a private or quasi-private entity (such as a trading house) procures goods or services on behalf of the State, please describe the procurement laws and procedures that govern these procurement.

Answer

See reply 174 herein.

Question 176

Reply 125 indicates that a draft law “On the Quality and Safety of Foodstuffs” is under consideration. What is the status of that legislation?

Answer

Draft law “On the Quality and Safety of Foodstuffs” is still under consideration.

Question 177

Could Russia please provide a comprehensive statement on its standards regime addressing the provisions of the WTO Agreement on Technical Barriers to Trade (TBT) and related WTO obligations?

Answer

Arrangements in place in Russia with respect to standards are set forth in Law No. 5154-1 "On Standardization", dated 10 June 1993, which lays the legal groundwork for standardization and defines measures of government protection for the interests of consumers and the State by drawing up and enforcing regulatory acts on standardization.

The text of this Law was submitted to the WTO Secretariat in March 1994 (See L/7410/Add.1).

See also answer 178 herein.

Question 178

Could Russia please prepare a draft response to the WTO questionnaire on the implementation of the TBT Agreement, as provided for in WT/TBT/2, for review at the next Working Party meeting?

Answer

Since the agenda for the fourth meeting of the Working Party on Russia's accession to the WTO has already been approved, the Russian delegation deems it most important to prepare background materials and documents for the agreed upon agenda, and to more carefully prepare material for this subject for the next Working Party's meeting which will deal more specifically with problems related to technical barriers to trade.

Question 179

In response to question 129 (WT/ACC/RUS/9), Russia states that it plans to publish recommended fee structures for mandatory conformity assessment procedures for products and services in 1996. Has this document been published? If so, please provide the WTO Secretariat with a copy for review by the Working Party.

Answer

The document "Payment for Work Done in the Certification of Products and Services" (R 50.3.001-960) was published and entered into force on 18 March 1996. It has been provided to the WTO Secretariat.

Question 180

The response to question 133 (WT/ACC/RUS/9) was not complete. Please provide information on the types of risks which the certification procedure is addressing and the nature of the conformity assessment procedure (e.g., inspection, production of test reports, product type-approval, quality systems certification, or combinations of these).

Answer

See answer 20 in document WT/ACC/RUS/13.

Question 181

The response to question 135 (WT/ACC/RUS/9) indicates that the Russian Committee on Commerce exercises State control through "... pricing order and regulations...".

What does the phrase "pricing order and regulations" refer to?

Answer

This phrase applies to products on the list approved by Russian Government Resolution No. 239 "On Measures to Streamline the State Regulation of Prices," dated 7 March 1995, which has been submitted to the WTO Secretariat.

Question 182

We understand that Russia is very close to establishing full foreign exchange convertibility on the current account. We welcome Russia's commitment to accept Article 8 obligations under the IMF Agreement. It is a large step forward in securing the basis for a WTO-compatible economic and trade regime, and will encourage investment and accelerated economic growth.

Answer

The Russian delegation takes note of these comments.

Question 183

Regarding progress towards new laws:

- (a) **Could Russia give an update on the legislative initiatives referred to in WT/ACC/RUS/9?**

In particular, please provide additional information on the following:

- (b) **We understand that the “Law on Food Quality and Safety” was submitted to the Duma by the Russian Government mid-May. Could Russia make a translated draft available to the Secretariat for WP review?**
- (c) **The draft Law on Criminal Penalties for violations of intellectual property rights has been before the Duma for some time. Could the Russian delegation give us a status report?**

Answer

- (a) See the document "On Legislation Development" which has been submitted by the Russian delegation to the WTO Secretariat.
- (b) See answer 21 in document WT/ACC/RUS/13.
- (c) See answer 47 in document WT/ACC/RUS/13.

Question 184

Could we please have a copy of Russia’s current tariff schedule in electronic media?

Answer

The customs tariff of the Russian Federation, including existing rates, has been provided by the Russian delegation to the WTO Secretariat both on hard copy and on diskette.