Chapter 2

ISSUES REGARDING ACCESSION OF RUSSIA TO THE WTO

Current Status of WTO Accession

A number of countries and regions are currently seeking accession to the WTO. This chapter explains the present situation of negotiations and conditions that should be met before Russia accedes to the WTO.

Starting with an overview of WTO accession in general, expanding the WTO membership is of great significance to not only WTO applicants but also WTO Members. First, accession improves domestic market access to the newly acceded countries and regions for trade in goods and services. It also ensures transparent, predictable trading systems because trade policies, laws and other trade systems are brought into conformity with WTO rules, while improvement of the trade and investment environment expands world trade and investment. Second, accession provides a common framework — a “WTO yardstick” — to settle future trade disputes with these countries and regions. Furthermore, the more countries and regions accede to the WTO, the easier it is to maintain and strengthen the universality of the multilateral trading system.
Since the establishment of the WTO in 1995, 16 countries have successfully acceded through negotiations. These include Ecuador, Bulgaria, Mongolia, Panama, Kyrgyz, Latvia, Estonia, Jordan, Georgia, Albania, Oman, Croatia, Lithuania, Moldova, China (which became the 143rd WTO Member on 11 December 2001), and, most recently, Taiwan, which became the 144th Member on 1 January 2002. By the end of February 2002, 28 countries had applied for accession to the WTO. (See Figure 1).

WTO accession negotiations have become more prolonged in recent years. Some observers point out that requirements by WTO Members for applicant countries and regions are often too demanding and the levels of requests on market access, for example, are often well above the standards of the existing Members. Steady implementation of the WTO rules is necessary to strengthen the WTO system. It is also important, however, to accelerate accession negotiations to admit as many countries as possible to the WTO before the new round of trade negotiations.

Among former members of the Soviet Union, Kyrgyz Republic, Latvia, Estonia, Georgia, Lithuania, and Moldova succeeded in achieving accession. This is a historical achievement, these countries’ participation as full members in the WTO-based international economic system marks a new phase in the evolution of the market economies emerging from the collapse of the Soviet Union. These countries are also models for the eight other former Soviet countries, including Russia and the Ukraine, which have applied for WTO membership.

As a result of the accession negotiations of these countries, almost all imported items are bound in their tariff schedules, and final bound rates on major industrial goods are only around 10 percent. Other outcomes include: a commitment to broaden liberalization in services; to conform immediately to the TRIPS, TBT, and Customs Valuation Agreements without a transition period (conformance on accession); to abide by the TRIMs Agreement; to participate in the ITA and the
Chemical Tariff Harmonization Agreement; and to abolish export subsidies for agricultural products upon their accession.¹

**Figure 1**

List of Countries That Have Applied for Accession to the WTO
(As of February 2002)

<table>
<thead>
<tr>
<th>Date of application</th>
<th>Country</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prior to 1990</td>
<td>Algeria (1987), Nepal (1990)</td>
</tr>
<tr>
<td>1993</td>
<td>Armenia, Belarus, Russia, Saudi Arabia, Ukraine</td>
</tr>
<tr>
<td>1994</td>
<td>Cambodia, Macedonia, Sudan, Uzbekistan</td>
</tr>
<tr>
<td>1995</td>
<td>Vietnam, Seychelles, Vanuatu, Tonga</td>
</tr>
<tr>
<td>1996</td>
<td>Kazakhstan</td>
</tr>
<tr>
<td>1997</td>
<td>Andorra, Azerbaijan</td>
</tr>
<tr>
<td>1998</td>
<td>Laos, Samoa</td>
</tr>
<tr>
<td>1999</td>
<td>Lebanon, Bosnia &amp; Herzegovina, Bhutan</td>
</tr>
<tr>
<td>2000</td>
<td>Yemen, Cape Verde</td>
</tr>
<tr>
<td>2001</td>
<td>Yugoslavia, Bahamas, Tajikistan</td>
</tr>
</tbody>
</table>

Total of 28 Countries.

Note: Parentheses indicate the year of application for accession to GATT or WTO.

* Negotiations of Accession to the WTO

¹ The Chemical Tariff Harmonization Agreement (HS 28-39) has set up final tariff rates (ranging from 0 percent to 6.5 percent) and implementation periods set by several countries, including Japan, the United States and the EU. This was agreed to as part of tariff negotiations during the Uruguay Round.
Accession involves two different sets of negotiations that run in parallel to one another. The first set of negotiations is conducted in a WTO “working party” on a multilateral basis between the applicant and Members. Through these negotiations, the economic and trading systems of the applicant are reviewed, and a “protocol of accession” and a “working party report” are drawn up describing the conditions of the applicant for conforming to WTO rules. The other set of negotiations, often referred to as “market access negotiations”, is conducted bilaterally on a request and offer basis between the applicant and WTO Members who wish to negotiate. These bilateral negotiations involve tariff reductions, the reduction and elimination of non-tariff barriers, and commitments in services so as to improve access to the applicant’s markets. The results of these bilateral negotiations are applied to all Members under the principle of “most-favored-nation treatment”. (See “Flow Chart of WTO Accession Procedures” Figure 2.)
Country A indicates its intention of accede to the WTO (The Director-General of the WTO)

Working Party (WP) established (1) by the General Council

Multilateral negotiation in WP
- Reviews economic policies and foreign trade regime
- Reviews terms of accession

Bilateral negotiations with WTO contracting parties
- Schedule of tariff concessions
- Schedule of specific commitments in services
- Elimination of non-tariff barriers, etc.

Adoption of WP report and Protocol of accession, including Schedule of tariff concessions and Schedule of specific Commitments in service (in the Final WP meeting)

Approval of the accession by WTO contracting parties (2) in the General Council

Ratification of Protocol of accession by Country A

Enters into force (3)

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[Example] Mongolia

October 1991: Indicated its intention to accede to GATT
October 1991: General Council decided to establish WP


Bilateral negotiations held with the US, EU, Japan, etc. during this time

Adoption of WP report and Protocol of accession in the final WP meeting

July 1996: General Council
- Adopted WP report, Protocol of accession and Decision on accession
- Approved Mongolia’s accession to the WTO

December 1996: Protocol of accession was ratified by Mongolia.

January 1997: Mongolia acceded to the WTO

(1) WP reviews economic policies and foreign trade regime (including tariff system) of country A, then creates protocol of accession, which prescribes the country's terms of accession.

(2) Decision on accession is taken by the Ministerial Conference according to the Agreement of Establishing the WTO. General Council acts for the Ministerial Conference in the intervals between meetings of the Ministerial Conference. Approval is made by consensus. If consensus is not reached at the meeting of the Council, it shall be decided by a two-thirds majority of voting the members.

(3) Normally, Accession enters into effect on the 30th day after acceptance of the protocol by the applicant country (noted in the protocol).
RUSSIA’S ACCESSION TO THE WTO

Recent Developments

Russia applied to accede to GATT in June 1993, and a Working Party on Russian accession was established the same year. The first Working Party meeting was held in July 1995. Thirteen Working Party meetings have been held so far, confirming the facts in regard to Russia’s economic and trading systems and discussing individual areas.

The first 12 meetings determined that the drafting of a protocol of accession or a Working Party report specifying the conditions on Russia’s accession to be premature. However, at the 13th Working Party meeting held in January 2002, the WTO Secretariat was directed to draft these documents, which is expected to signal the acceleration of the negotiation process. Parallel with the Working Party meetings, the Russian Federation has been actively pursuing bilateral negotiations on tariffs and services to improve market access. Deputy Minister Maxim Medvedkov of the Ministry of Economic Development and Trade, who heads Russia’s accession negotiation delegation, has announced that Russia hopes to have its accession approved in 2004, at the latest.

In terms of domestic responses to WTO accession, President Vladimir Putin has labeled accession a priority issue, and has been seizing every opportunity to stress the importance of this both at home and abroad. In July of 2000, the Russian Federation formulated the “Federal Government Action Plan for Social Policy and Economic Modernization 2000-2001.” The plan calls for an improvement in living standards, rectification of social inequities, and a restoration of Russia’s economic and political roles in the international community. One of the plan’s top priority is to bringing domestic law into conformity with WTO requirements and completing WTO membership negotiations. (The 2002-2004 version of the plan, approved in July 2001, gives equal priority to WTO accession.) However, many Russians allegedly oppose accession on the grounds that WTO membership will expose
Russia to international competition, dealing a crushing blow to a number of domestic industries.

Japan has continued to support Russia’s early accession to the WTO in a manner that preserves the integrity of the WTO rules. Inclusion of Russia into the multilateral trading system on the basis of the WTO rules is crucial not only for Russia but also for the stability and development of the international economy. Japan has supported Russia’s accession to the WTO and has actively participated in Russian accession negotiations on the proviso of complete Russian commitment to the WTO rules. After submission of the offer on tariffs by Russia, Japan and Russia held bilateral negotiations in Moscow in March 1998, ahead of the US and EU. Since then Japan and Russia have held bilateral negotiations ten times, discussing specific trade areas such as tariff and non-tariff measures, standards and certification (TBT), intellectual property rights (TRIPS), and the development of legislation. In addition, to assist Russian compliance with WTO rules, Japan provided Russia with technical assistance in the autumn of 1998 by sending experts on standards and certification, TRIPS, and services, while in August 1999, trainees were accepted from Russia.

MEASURES TO BE RECTIFIED

UPON ACCESSION TO THE WTO

(1) Development of Legislation

The Russian economic and trading systems are improving gradually, with legislative reforms to ensure stable conditions for the activities of foreign companies in Russia. Since 1999, many laws and government ordinances, including the Federal Law on Foreign Investment in the Russian Federation, Tax Code of the Russian Federation, and Federal Law on Customs Tariffs, have been enacted and amended.
However, the rules and regulations for their implementation have not yet been properly established. In some cases, lack of consistency and transparency can be seen in the enforcement of these laws.

In addition, “Presidential Decrees” — a special kind of administrative order — are frequently issued, making it difficult for foreign businesses to understand the system as a whole. Inconsistency of the laws in a complicated legal system, as well as a lack of consistency and predictability in implementation, are causing serious concerns among foreign businesses contemplating operations in Russia. Foreign businesses, therefore, strongly desire that Russia establish a judicial system that can effectively resolve disputes when they arise. Moreover, they desire fair and predictable administration of law and legal precedent. A sound legal system and its appropriate implementation are expected to revitalize the Russian economy.

Meanwhile, some federal laws and ordinances contain provisions that are counter to WTO disciplines. Assuring that domestic laws are consistent with WTO agreements will be a major issue in accession. This is also recognized within Russia. President Putin noted in his 2001 state of the Federation address that the task of the Duma is to bring Russia’s laws and ordinances into conformity with WTO standards and provisions. The Governmental Commission of the Russian Federation on WTO Issues, supervised by the Vice Premier, has been set up to adjust opinions from related institutions in Russia as part of this process. Procedures are currently underway to legislate and amend laws which need to be adopted for the purposes of accession to the WTO, addressing: tariffs, foreign exchange regulations, foreign currency management, standards and certification (TBT-related), intellectual property rights (TRIPS-related), domestic supports (subsidies), safeguards(SG), antidumping(AD), and countervailing duties. The steady progress of these procedures are expected. (The Russian delegation has announced that by mid-2002 the relevant legislation should be adopted by the Duma.) However, new legislation and amendments to existing laws are needed to improve market access for services.

Russia’s applied import tariffs are comparatively low, and Russia also has comparatively few quantitative restrictions on imports. Accordingly, Russia seems
to have achieved a degree of liberalization equivalent to those of ordinary WTO members. However, given the difficult economic situation in Russia, many in the Duma and the industrial community have been calling for tariff increases and implementation of import restriction measures, consequently, there is concern that the government could respond by introducing such restrictions as a means of protecting domestic industry. We therefore must watch closely. (Russia has also expressed a reluctance to commit to “standstill,” measures under the GATT, by which they would be obligated to refrain from introducing new protectionism or from intensifying existing protectionism.)

(2) \textit{Import Tariffs}

(a) Applied Tariff Rates

A new tariff law which entered into effect as of January 2001 reduced the previous seven basic tariff classifications, ranging from 0 to 30 percent, to five basic tariff classifications, ranging from 5 to 25 percent. This has effectively reduced tariffs on approximately 3,500 products. Moreover, tariffs on more than 80 percent of items, primarily consumer goods such as sewing machines, televisions, and audio and video equipment, have been reduced comprising 25-40 percent of imports since January 2002. Deputy Minister Medvedkov of the Ministry of Economic Development and Trade has stated that import tariff reductions will be instituted progressively over seven years, and apply to the following three product groups: those imported products similar to Russian products which are competitive in the domestic market; materials for producing advanced finished goods (products which have undergone sophisticated processing); and products which Russia does not yet manufacture.

This reduction and simplification of tariff rates will help to suppress attempts to avoid high tariffs by arbitrarily manipulating tariffs at customs, and failure to pay tariffs at all. These reforms are expected to increase government revenues and to unify tariffs nationwide. However, proper implementation of the new law will
require fundamental reform of the tariff system, which has been subjected to constant criticism due to ambiguous tariff rates and arbitrary customs administration. The government is currently preparing a tariff code designed to clarify tariff procedures, which will hopefully be adopted and implemented as soon as possible. The Russian delegation has stated in the Working Party that the new tariff law is expected to enter into force in 2003. Specific information from the Russian government on this point is required.

(b) Tariff Offer Problems

From its initial offer of tariff concession rates in February 1998 to the most recent offer in August 2001, the Russian Federation has now presented a total of eight offers. The revised offers have gradually improved, including substantial reductions of tariff rates and the number of non-offered items, as well as a shorter final tariff implementation period. The offer by the Russian Federation, however, is still insufficient compared to Japanese requests, with room for progress in regard to tariff rates for several products. Russia also continues to ask for a long implementation period and is balking at participation in the ITA and the Chemical Tariff Harmonization Agreement. Russia asserts that complete compliance with Japan’s requests is difficult given the need to protect domestic industries and the importance of tariff revenue as a source of state finance. This is therefore an area that will require further bilateral negotiations.

(3) Export Tariffs and Export Restrictions

Since January 1999, the Russian government has decided to impose export tariffs of between five percent and ten percent on various items. Russia explains that the purpose of export tariffs is to increase revenues, and that they are limited to export items that have benefited significantly from large swings in the exchange rate against the dollar. These tariffs are imposed for a broad range of items, including petroleum and petroleum products, natural gas, iron/alloys, and nonferrous metals,
wood, paper pulp, chemicals, precious metals, leather, marine products, alcohol and fur skins.

In terms of current export tariff rates, crude oil tariffs are linked to international market prices from 1 January 2002 to 31 December 2004 at around the benchmark level of 340 rubles (around US$12) per ton (as of February 2002, its price is US$8 per ton). Shifting to a euro denomination after the provisional period; Russia will exempt duties on oil priced at less than US$15 a barrel; place a 35 percent tariff on oil priced US$15-25 a barrel; and add a 40 percent tariff for oil priced at more than US$25 a barrel. A US$25 tariff will be imposed per ton of gasoline and light oil and 10 euros per ton of heavy oil. Further, while tariff cuts have been instituted, natural gas is currently subject to a 5 percent tariff, iron and iron products 3 percent, nonferrous metals 4.8 percent, and precious metals 6.5 percent. Some countries have identified these tariffs as a de facto subsidy for domestic industries. The grounds for levying export taxes on the items in question are unclear and further explanation will be needed.

Furthermore, to ensure domestic supply Russia presently imposes an export quota system for heavy oil and liquefied petroleum gas, as well as an export licensing system for textiles and steel products. Full consideration needs to be given as to whether these systems are being operated in conformance with WTO agreements.

(4) **Customs Valuation**

There is concern that Russia’s customs valuation system may allow a de facto application of fixed import prices and arbitrary valuation practices. Further observation will be required. During accession negotiations, Japan has expressed concern that the reference to customs values used by Russia to determine customs values for automobiles and consumer electronics might correspond to fictitious minimum values that are banned under the WTO Agreements. Russia is currently amending its laws and ordinances to bring its customs valuation system into
conformity with the WTO Agreement. Russia is required to provide the information, including information on the implementation system.

(5) Uniform and Transparent Administration of the Trading System

Many countries have expressed concern over the lack of uniformity and transparency in the actual administration of the trading system. In Section (2) (a) “Applied Tariff Rates”, we described Russia’s efforts to create a uniform system under the new tariff law. We praise these efforts. However, there are still many examples of problems in this area and timely improvements are required.

First, many observers point out that one must wait until going through customs before one is sure how much duty will be imposed because different customs offices will make different decisions about categorization and different officers may interpret customs laws and systems differently. In particular, import tariffs on parts are not imposed uniformly in each custom office and the content and classification for SKD (semi-knockdown) and CKD (complete knockdown) parts are also indiscriminate. There are even reports that it is common for tariffs to change or be waived in individual negotiations.

Second, procedures regarding mainly raw materials are arduous and time-consuming. Different customs offices require different documents and forms, exemplifying a lack of procedural uniformity. There are also reports of differences in tariffs between prices indicated in US dollars and those indicated in Russian rubles.

Third, according to some reports, local customs offices often engage in arbitrary implementation of central government laws and ordinances, demanding payment of taxes outside government regulations. Moreover, even when tariff waivers are granted on the fulfillment of certain conditions, this information is not always communicated to the customs office, and duties are charged anyway.
Other comments indicate that it is difficult to deal with the frequent and unannounced changes to laws and ordinances defining the documents and procedures required to obtain waivers during customs clearance, and that overly cozy relations between customs officers and customs clearance agents are reducing tariff revenues. These problems need to be rectified as soon as possible by the introduction of a new tariff administration system.

(6) **Tax System**

Japanese companies have frequently expressed concern that the lack of transparency and reliability in the tax system and frequent changes to the rules results in problems for business talks and activities. First and foremost, the tax system is complicated and includes too many taxes. In addition, there are high effective tax rates that would leave firms with no profits if taxes were to be paid according to the rules. Taxation has not been systematized, and there are no explicit documents available on administrative procedures. Therefore, its implementation largely depends on the discretion of the tax officials. Russia began to reform its tax system in an effort to solve these problems. Among its goals for the reforms are improvements in the investment environment, a balanced state budget, reduction and balancing of tax burdens, simplification of the tax system, and improvement of tax administration. Improvements have resulted in the introduction of a flat-rate private income tax of 13 percent (replacing the 12-35 percent progressive tax rate) and lowering of the corporate profits tax from 35 percent to 24 percent as of January 2002. We look for continued steady progress with systemic reforms and the uniform and appropriate implementation of the new systems.
(7) **Non-Tariff Measures (Import Prohibitions and Non-Automatic Import Licensing)**

Russia claims to have no import quotas, but ethyl alcohol, chemicals (primarily pharmaceuticals), and a number of other items appear on the non-automatic import licensing list submitted to the WTO by Russia. WTO Members have stated that they need to study the licensing system in detail to determine whether it serves as an import restriction, and each item will have to be examined specifically based on the WTO Agreement to determine if there are any problems, including implementation aspects.

Business people complain that it takes too long to obtain import licenses and that officials require the submission of data and evidence that is completely unrelated to the granting of import licenses. Conformity to the WTO Agreement is required regarding the licensing system itself, as well as its implementation. Japan expects a further relaxation of the rules to obtain licenses and efficient administration of the system.

(8) **Foreign Exchange and Payments System**

(a) **Limitation on the Period Between Advance Payment and Customs Clearance**

According to the “Federal Law on Foreign Currency Regulation and Management” of October 1992, Russian companies are entitled to receive a refund promptly from their contractors if they do not receive their goods within 180 days of advance payment. This gave rise to problems for such items as construction machinery, which would normally require a long production period.

In January 1999, a Presidential Decree strengthened the “Federal Law on Budget and Taxation Priorities” regulations by reducing the period from 180 days to 90 days. This aggravated the situation by making it virtually impossible for delivery within the period of products that are manufactured after orders are placed. No matter how faithfully Japanese companies try to uphold their side of the agreements,
problems still exist on the Russian side such as delays in confirming deposits and time-consuming domestic transportation, as well as uncertainty regarding the date from which the advance payment time period should be calculated.

With regard to import procedures, the central bank issued an order called the “Guidance on Implementing Foreign Exchange Controls for Payment of Exchangeable Currency for Imported Goods” in 1995 that obliges importers to submit “import passports” (the foreign exchange bank cannot transfer payment for the import without them). This passport must clearly state the delivery period for the imports (currently 90 days) and must stipulate that the price will be returned to the bank account of the importer if prepaid products are not delivered within that period. Foreign exchange banks refuse to approve import passports that do not carry this wording, and exporters allow the wording on the passports because they fear that they will not be paid without it. Russia regards the above order as a core measure to prevent the outflow of Russian capital to foreign countries. However, Japanese companies seek the early elimination of this system on the grounds that it restricts business.

(b) Mandatory Requirement to Convert Export Earnings to Rubles, Ruble Deposit Requirement for Import Value, and Foreign Currency Remittance Restriction

To prevent illegal capital flight, Russia demands that foreign companies convert 50 percent of their export earnings to rubles and make ruble-denominated deposits equivalent to the import value. These measures, however, are trade-restrictive. The former in particular imposes a heavy exchange commission burden on foreign exporters and should be eliminated as soon as possible.

Japanese companies have complained that the numerous complicated and stringent restrictions applied to foreign currency remittance, including offshore remittance taxes as high as 50-100 percent, comprise a significant trade barrier. Japan expects to see these restrictions relaxed and the system made more transparent.
(9) *Standards and Certification (TBT)*

(a) Discussions on Technical Barriers to Trade

The issue of standards and certification is an area of deep concern to many countries. Japan and Russia have exchanged written requests and responses in an ongoing effort to supplement the bilateral negotiations. These efforts have helped to promote mutual understanding in some aspects. As a result, some improvements have been made in the standards and certification system in Russia.

With regard to the general issue of standards and certification, the areas requiring improvement are: (1) assurance of transparency and predictability; (2) harmonization with international standards and review of compulsory technical regulations unique to Russia; (3) unification and simplification of certification procedures; and (4) adoption of manufacturer's declaration of conformity in a wide range of areas. In the meantime, Russia has established a “Program of Actions” to conform its legislative system to TBT, and is currently making efforts to implement measures based on the program. GOSSTANDART (GOST), a national certification body in Russia, has played a major role in drawing up the program and in carrying out policies on standards and certification.

Several draft laws including specific regulations have been under consideration. For example, the “Draft Federal Law on Technical Measures in Trade” includes provisions regarding prior notification of changes in standards, a period for comments, and publication of standards. The “Draft Federal Law on Conformation of the Conformity of Products and Services to Regulatory Requirement” includes provisions for simplification of the procedures and improvement of transparency by introduction of the manufacturer's declaration of conformity. Other draft laws includes the “Draft Federal Law on Amendments and Supplements to the Law of the Russian Federation on Standardization” and the “Draft Federal Law on Safety Machinery”. The Russian government is currently in the process of formulating a new bill which will combine the above draft laws into a single package. We recognize the many efforts that Russia has made to improve its system, but hope for
further enhancement as the result of consultations with individual countries. These improvements should, of course, be implemented as early as possible and should be accompanied by commensurate improvements in administrative systems.

(b) Specific Barriers to Trade

Below are examples of specific problems encountered:

*Introduction of Sanitary Standards Certification for Consumer Electronics*

Since January 1997, an obligation to obtain sanitary certifications (toxic material content, noise and ozone pollution, etc.,) has been imposed on some consumer electronics products. The effects of electromagnetic waves and noise on human health and international standards regarding these points are still in their research stage. Internationally, sanitary standards exist as voluntary standards in some countries, but there are virtually no examples of countries that have introduced mandatory standards like those found in Russia.

The system in question doubles the mandatory certification burden by requiring approval from GOST under the auspices of the Ministry of Economic Development and Trade as well as certification pursuant to health regulations. It is an obstacle for the market access to Russia. Russia is required to simplify its redundant requirements, clarify its technical standards and assessment methods for electrical products, and improve its institutional framework.

*Safety Standards Certification Requirement on Repair Parts of Certificate-Issued Consumer Electronics at Customs*

When parts used in consumer electronics that have already acquired a safety standards certification as finished products are exported as repair parts, general
international practices do not require any additional safety certification. Russia, however, requires the acquisition of safety standards certification for individual parts each time through customs. Japanese companies want to eliminate this obligation at the earliest possible time. Russia has explained that it is considering introducing manufacturer's declaration of conformity for certain products to simplify the procedures, and we expect the system to be improved accordingly.

**Obligation to Display Counterfeit Prevention Marks on Consumer Electronics**

On 30 December 1998, Russia issued its “Instruction on the Prevention of Certification Mark Counterfeiting” that obligates importers to affix registration information marks on cartons in addition to the prior requirements that manufacturers affix certification marks on the products and that sellers affix registration information marks on the products. As a result, foreign manufacturers have to purchase three different marks and affix them to their products. Such requirements are excessive. This requirement appears to violate the WTO principle of the non-discrimination within the WTO Agreements. Mandatory certification marks are also detrimental to sales activities and Japan has been pressing for the early removal of the requirement of all marks other than safety marks. Russia is moving to eliminate this requirement and replace it with a counterfeit prevention system.

(10) **Trade in Services**

Russia submitted its initial offer in services in 1999. There were many problems with regard to the proposal. One of the most common criticisms was that Russia kept many restrictions on a wide range of areas, and Russia had still not committed to liberalization in many areas. For example, there were no commitments on business activities in many areas, such as the establishment of branches and
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representative offices. There were also few commitments on cross-border supply. Russia needs to reduce the number of countries that it exempts from its Most-Favored-Nation treatment. Russia must also revise the language of its offer to be clearer and more accurate.

Russia submitted a second offer in February 2001 based on such criticisms by WTO Members. It included further improvement, new commitment areas (life insurance, for example) and relaxed foreign equity restrictions, but many restrictions remained. Some areas even appeared to be moving backward. In all cases, Japan will need to discuss these issues during bilateral negotiations and seek further improvements.

The following are examples of the specific problems encountered presently:

In the distribution sector, alcoholic products, pharmaceuticals, precious metals, and a large number of other items have been excluded from subject items. A condition of the “economic needs test” on establishing commercial presence should be eliminated in retail services. With respect to finance, Russia has restrictions on the total foreign share of capital that can be held in the banking and insurance sectors in Russia (25 percent for banking, 15 percent for insurance). These restrictions should be relaxed. In the telecommunications sector, the expression of restrictions and their applicable ranges are unclear, and foreign equity restrictions should be relaxed. In the transportation sector, there are no commitments for marine transportation services or road transportation services.

(11) Subsidies

The reduction and elimination of subsidies for specific uncompetitive industries is an important point of fiscal reform. The Russian Federation is making an effort to do so. The primary industrial subsidies are for structural reforms in hard-hit industries such as coal, and economically distressed areas in the far east and far north. Russia reports that none of these subsidies are in the “prohibited” category.
as defined by the Subsidies Agreement. It is entirely unknown, however, just how subsidies paid to local governments are being used or in what areas. Member countries have asked for the provision of accurate and detailed information that can be used in evaluating the nature of these subsidies, and there is a need to ensure transparency and examine the proper administration.

In agriculture, liberalization of prices for agricultural products has resulted in falling volumes, which has made conditions in the industry precarious and has led to the payment of subsidies for production improvements, infrastructure construction, public stockpiles, and preferential loans. Member countries have requested that the base period for domestic support should be the last three years, but Russia wants to use the 1991-1993 period. Member countries have also requested that export subsidies be eliminated. In response, Russia has stated that it wants to maintain domestic transport subsidies for the long-distance transport of agricultural products in view of Russia’s vast territory and topographical characteristics. Further study on this issue is required. As with industrial subsidies, accurate information needs to be provided on agricultural subsidies.

(12) Protection of Intellectual Property Rights (TRIPS)

While work continues to bring Russia’s intellectual property right laws in line with the TRIPS Agreement, there are still many problems to be solved regarding the way in which laws and ordinances are enforced. For instance, Russia needs to improve domestic laws regarding intellectual property protection to protect undisclosed information, trademarks well-known in foreign countries, and criminal procedures, and sanctions against copyright violations. To ensure the effective enforcement of intellectual property rights, Russia also needs to establish: broader criminal procedures including stronger penalties for infringement, compensation for the revenue garnered through infringement, national treatment, Most-Favoured-Nation treatment, retroactive protection of copyrights, protection of geographical indications, protection of plant varieties, and civil judicial procedures and remedies.
We do not have sufficient information on the manufacture and distribution of products that infringe intellectual property rights, but believe that pirated CDs, videos, and computer software are readily available. We look for concrete improvements in how these laws are enforced, including broader measures by the customs authorities, and stronger systems for identifying and bringing trademarks and copyrights infringers to justice.

Russia is currently in the process of amending its TRIPS-related laws including: the Patent Law, the Law on Trademarks, the law on Service Marks and the Appellations of the Origin of Goods, the Copyright Law, the Law on the Legal Protection of Computer Programs and Databases, and the Law on the Legal Protection of Layout Designs of Integrated Microcircuits. The Russian Duma is considering these amendments.

There has been some discussion on when Russia will completely conform to the TRIPS Agreement. Russia claims that it needs time to implement uniform systems nationally. Japan and other member countries have indicated that Russia should fulfill all TRIPS obligations upon its accession.

(13) Agreement on Trade-Related Investment Measures (“TRIMs”)

(a) Presidential Decree to Attract Investment in the Automobile Industry

Under the “Presidential Decree on Additional Measures to Attract Investment for Development of the Russian Automobile Industry” of 5 February 1998, foreign investors who provided a certain amount of investment in large-scale projects were exempt from import tariffs for five to seven years on equipment and parts. However, at the same time, they were required to meet local content requirements (50 percent) as a condition to gain preferential treatment. This gave rise to the question of inconsistency in connection with the TRIMs Agreement and Subsidies Agreement. As a result of consultations with the IMF, Russia announced it would eliminate the preferential treatment by 2000. The system does not in fact
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seem to be currently in use, but the above presidential decree has yet to be abolished. Russia will need to demonstrate continuing progress, including the development of legislation, if it is to alleviate concerns over the possible future reactivation of the system.

(b) The Production Sharing Agreement Law

Member countries have focused their attention on the Duma’s consideration of amendments to the Law on the Production Sharing Agreement, which contains elements inconsistent with TRIMs obligations regarding the proportion of local content. In addition, there is information that Russia may be working to revise this law with the aim of raising the percentage of local content. Russia explained at the Working Party in December 1998 that calculation of local content would be based on the purchasing price from local enterprises, including purchases from subsidiaries of foreign companies in Russia, and that therefore, no substantial problem existed regarding local content requirements. However, the new law still includes many restrictions and forms of discrimination, including not only local content requirements but also the granting of preferential participation rights to Russian companies and obligations to employ Russian staff. Careful examination will need to be to the content and direction of the law.

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2 The Production Sharing Law gives investors the exclusive right to mine and develop mineral resources under a contract with the government of the Russian Federation. The contract obligates the investor to use his or her own funding and work at his or her own risk. (The contents of the contract for the Sakhalin I and II projects are protected as a vested right under the grandfather clause (Article 2.5) of the law, though they were signed prior to its 1995 passage).
(14) **Customs Union with Other CIS Countries**

Russia and the other members of the Commonwealth of Independent States (CIS) have concluded bilateral free trade agreements, while the preliminary stage of a customs union between Russia, Belarus, Kazakhstan, Kyrgyz Republic, and Tadzikistan known as the Eurasian Economic Union (EEU) has also been launched. Russia and Belarus also signed an agreement in October 2000 to establish a union state, the process of economic integration into which is already underway. Russia claims that these developments present no problems in terms of GATT Article XXIV, but many countries see Russia’s regional agreements, including the customs union, as potentially serious problems for third countries. It is necessary to continue to seek information on this and study further developments.

Moreover, in 1998, Russia began preliminary talks aimed at a free trade agreements with the EU based on the Russian-EU partnership agreement. All of the movements have to be observed in relation to transparency and conformity with WTO rules.