COMMISSION OF THE EUROPEAN COMMUNITIES

COM(94) 257 final

Brussels, 15.06.1994

94/ 0151(AVC)

Proposal

for a Council and Commission Decision

on the conclusion of the Agreement on Partnership and Cooperation

between the European Communities and their Member States

of the one part, and Russia, of the other part

(presented by the Commission)

Explanatory memorandum

1. The attached proposal for a Council and Commission Decision constitutes the legal instrument for the conclusion of the Agreement on Partnership and Cooperation between the European Communities and their Member States, on the one hand, and Russia, on the other.

2. Following the Council's adoption of the negotiating directives on 5 October 1992, negotiations with Russia took place in the course of 1992, 1993 and 1994.

3. The Agreement is a mixed-type Agreement covering areas for which both the Community and the Member States are competent, and is concluded for an initial period of ten years.

   It establishes a political dialogue. The Agreement covers also trade in goods, labour conditions, establishment and operation of companies, cross-border supply of services, payments and capital, competition, intellectual, industrial and commercial property protection, legislative cooperation, economic cooperation, cultural cooperation and financial cooperation.

   The Agreement contains a clause covering human rights which allows it to be suspended, even unilaterally, in an emergency.

   The Agreement sets out an institutional framework for its implementation with a Cooperation Council, a Cooperation Committee and a Parliamentary Cooperation Committee.

   The Agreement establishes the prospect of a future free trade area. In 1998, circumstances will be assessed in order to see whether negotiation can begin towards free trade .

4. The Agreement will supersede, as far as Russia is concerned, the Agreement on Trade and Commercial and Economic Cooperation between the European Economic Communities and USSR, signed on 18 December 1989.

5. The procedures of the three Communities (EC, EAEC and ECSC) for signing and concluding the Agreement differ.

   For the purpose of concluding the Agreement :

   - the Council will conclude the Agreement on behalf of the European Community in accordance with Articles 113 and 235 of the EC Treaty by adopting the attached decisions;

   - in accordance with Article 95 of the ECSC, after consulting the Consultative Committee and with the unanimous assent of the Council, the Commission will conclude the Agreement on behalf of the ECSC;

   - the Council will approve the Agreement in accordance with the second paragraph of Article 101 of the Euratom Treaty. The Commission will then conclude the Agreement (on behalf of the European Atomic Energy Community);

   - given the mixed-type nature of the Agreement, the conclusion of the Agreement will have to be ratified by all the Member States.

6. In view of the above, the Commission asks the Council to adopt the annexed decision.

COUNCIL AND COMMISSION DECISION

on the conclusion of the Agreement on Partnership and Cooperation

between the European Communities and their Member States

of the one part, and Russia, of the other part

(../.../ECSC, EC, EURATOM)

THE COUNCIL OF THE EUROPEAN UNION,

THE EUROPEAN COMMISSION,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Community, and in particular Article 113 and 235 in conjunction with article 228 paragraph 2 and 3, second subparagraph thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

Having regard to the approval of the Council granted pursuant to Article 101 of the Treaty establishing the European Atomic Energy Community,

Whereas the Agreement on Partnership and Cooperation between the European Communities and their Member States, on the one part, and Russia, on the other, signed on ..., should be approved,

Having consulted the Consultative Committee and with the unanimous agreement of the Council,

Having regard to the assent of the European Parliament,

HAVE DECIDED AS FOLLOWS :

Article 1

The Agreement on Partnership and Cooperation between the European Communities and their Member States of the one part, and Russia, of the other part, together with the Protocols, the connected exchanges of letters, the declarations and the final act of adoption of the Agreement are hereby approved on behalf of the European Community, the European Coal and Steel Community, and the European Atomic Energy Community.

These texts are attached to this Decision.

Article 2

1. The position to be adopted by the Community in the Cooperation Council shall be determined by the Council, on a proposal from the Commission, or, where appropriate, by the Commission, in each case in accordance with the relevant provisions of the Treaties establishing the European Community, the European Coal and Steel Community and the European Atomic Energy Community.

2. In accordance with Article 90 of the Agreement on Partnership and Cooperation, the President of the Council shall preside over the Cooperation Council and shall present the Community's position. A representative of the Commission shall preside over the Cooperation Committee in accordance with its rules of procedure and shall present the Community's position.

Article 3

The President of the Council shall give the notification provided for in Article 112 of the Agreement on behalf of the European Community. The President of the Commission shall give such notification on behalf of the European Coal and Steel Community and the European Atomic Energy Committee.

Done at Brussels,

FINAL ACT

The plenipotentiaries of:

THE KINGDOM OF BELGIUM,
THE KINGDOM OF DENMARK,
THE REPUBLIC OF GERMANY,
THE HELLENIC REPUBLIC,
THE KINGDOM OF SPAIN,
THE FRENCH REPUBLIC,
IRELAND,
THE ITALIAN REPUBLIC,
THE GRAND DUCHY OF LUXEMBOURG,
THE KINGDOM OF THE NETHERLANDS,
THE PORTUGUESE REPUBLIC,
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Contracting Parties to the Treaty establishing the EUROPEAN COMMUNITY, the Treaty establishing the EUROPEAN COAL AND STEEL COMMUNITY, and the Treaty establishing the EUROPEAN ATOMIC ENERGY COMMUNITY,

hereinafter referred to as "the Member States", and of

the EUROPEAN COMMUNITY, THE EUROPEAN ATOMIC ENERGY COMMUNITY and the EUROPEAN COAL AND STEEL COMMUNITY, hereinafter referred to as "the Community",

of the one part, and

the plenipotentiary of the RUSSIAN FEDERATION, hereinafter referred to as "Russia",

of the other part,

meeting at ..... this ..... in the year one thousand nine hundred and ninety-four for the signature of the Agreement on Partnership and Cooperation establishing a partnership between the European Communities and their Members States, of the one part, and the Russian Federation, of the other part, hereinafter referred to as the Agreement on Partnership and Cooperation , have adopted the following texts:

The Agreement on Partnership and Cooperation including its annexes and the following Protocols:

Protocol 1 on the establishment of a coal and steel contact group,

Protocol 2 on mutual administrative assistance for the correct application of customs legislation,

The plenipotentiaries of the Member States and of the Community and the plenipotentiary of Russia have adopted the texts of the joint declarations listed below and annexed to this Final Act:

Joint declaration in relation to Title III and Article 94 of the Agreement

Joint declaration in relation to Article 10 of the Agreement

Joint declaration in relation to Article 12 of the Agreement

Joint declaration in relation to Article 17 of the Agreement

Joint declaration in relation to Article 18 of the Agreement

Joint declaration in relation to Article 22 of the Agreement

Joint declaration in relation to Article 23 of the Agreement

Joint declaration in relation to Article 24 of the Agreement

Joint declaration in relation to Articles 26, 32 and 37 of the Agreement

Joint declaration in relation to Article 28 of the Agreement

Joint declaration in relation to Article 29 (3) of the Agreement

Joint declaration in relation to Article 30 of the Agreement

Joint declaration in relation to Article 30 a) and g) of the Agreement

Joint declaration in relation to the notion of "control" in Article 30 (b) and Article 45 of the Agreement

Joint declaration in relation to Article 30 (h), 3rd subparagraph of the Agreement

Joint declaration in relation to Article 31 of the Agreement

Joint declaration in relation to Articles 34 and 38 of the Agreement

Joint declaration in relation to Article 35 of the Agreement

Joint declaration in relation to Article 39, (2c), 2nd subpara. of theAgreement on opening ports

Joint declaration in relation to Article 39, (2c), 2nd subpara. of the Agreement on vessels under a third flag

Joint declaration in relation to Article 44 of theAgreement

Joint declaration in relation to Article 46 (2) of the Agreement

Joint declaration in relation to Article 48 of the Agreement

Joint declaration in relation to Article 52 of the Agreement

Joint declaration in relation to Article 53 (2.2) of the Agreement

Joint declaration in relation to Article 54 of the Agreement

Joint declaration in relation to Article 99 of the Agreement

Joint declaration in relation to Article 101 of the Agreement

Joint declaration in relation to Article 107 of the Agreement

Joint declaration in relation to Article 107 (2) of the Agreement

Joint declaration in relation to Articles 2 and 107 of the Agreement

Joint declaration in relation to Article 112 of the Agreement

Joint declaration in relation to Article 6 of Protocol 2

The plenipotentiaries of the Member States and of the Community and the plenipotentiaries of Russia have also taken note of the following exchanges of letters annexed to this Final Act:

Exchange of letters in relation to Article 18 of the Agreement

Exchange of letters in relation to Article 22 of the Agreement

Exchange of letters in relation to Article 29 of the Agreement

Exchange of letters in relation to Article 52 of the Agreement

The plenipotentiary of Russia has taken note of the declarations listed below and annexed to this Final Act:

Community declaration in relation to Article 36 of the Agreement

Community declaration in relation to Article 54 of the Agreement

The plenipotentiaries of the Member States and of the Community have taken note of the declarations listed below and annexed to this Final Act:

Declaration by Russia in relation to Article 34 of the Agreement

Declaration by Russia in relation to Article 36 of the Agreement

Done at ..... in the year one thousand nine hundred and ninety four.

For the Kingdom of Belgium:
etc.

For the European Community represented by the Council of the European Union and the Commission of the European Communities:

For the Russian Federation:

9 June 1994

AGREEMENT ON PARTNERSHIP AND COOPERATION

ESTABLISHING A PARTNERSHIP BETWEEN THE EUROPEAN COMMUNITIES AND THEIR MEMBER STATES, OF THE ONE PART, AND THE RUSSIAN FEDERATION, OF THE OTHER PART.

THE KINGDOM OF BELGIUM,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

IRELAND,

THE ITALIAN REPUBLIC,

THE GRAND DUCHY OF LUXEMBOURG,

THE KINGDOM OF THE NETHERLANDS,

THE PORTUGUESE REPUBLIC,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

contracting parties to the Treaty establishing the European Community, the Treaty establishing the European Coal and Steel Community, and the Treaty establishing the European Atomic Energy Community,

hereinafter referred to as "Member States", and

the **EUROPEAN COMMUNITY, the EUROPEAN ATOMIC ENERGY COMMUNITY and the EUROPEAN COAL AND STEEL COMMUNITY,**

hereinafter referred to as "the Community",

of the one part,

and **THE RUSSIAN FEDERATION**

hereinafter referred to as "Russia",

of the other part,

1 h

CONSIDERING the importance of the historical links existing between the Community, its Member States and Russia and the common values that they share,

RECOGNIZING that the Community and Russia wish to strengthen these links and to establish partnership and cooperation which would deepen and widen the relations established between them in the past in particular by the Agreement between the European Economic Community and the European Atomic Energy Community and the Union of Soviet Socialist Republics on Trade and Commercial and Economic Cooperation, signed on 18 December 1989, hereinafter referred to as the 1989 Agreement,

CONSIDERING the commitment of the Community and its Member States, acting in the framework of the European Union established by the Treaty on European Union of 7 February 1992, and of Russia to strengthening the political and economic freedoms which constitute the very basis of the partnership,

CONSIDERING the commitment of the Parties to promote international peace and security as well as the peaceful settlement of disputes and to cooperate to this end in the framework of the United Nations, the Conference on Security and Cooperation in Europe, and other fora,

CONSIDERING the firm commitment of the Community and its Member States and of Russia to the full implementation of all principles and provisions contained in the Final Act of the Conference on Security and Cooperation in Europe (CSCE), the Concluding Documents of the Madrid and Vienna Follow Up Meetings, the Document of the CSCE Bonn Conference on Economic Cooperation, the Charter of Paris for a New Europe and the CSCE Helsinki Document 1992, "the Challenges of Change",

CONFIRMING the attachment of the Community and its Member States and of Russia to the aims and principles set out in the European Energy Charter of 17 December 1991 and in the Declaration of the Lucerne Conference of April 1993,

CONVINCED of the paramount importance of the rule of law and respect for human rights, particularly those of minorities, the establishment of a multiparty system with free and democratic elections and economic liberalisation aimed at setting up a market economy,

BELIEVING that the full implementation of partnership presupposes the continuation and accomplishment of Russia's political and economic reforms,

DESIROUS of encouraging the process of regional cooperation in the areas covered by this Agreement between the countries of the former USSR in order to promote the prosperity and stability of the region,

DESIROUS of establishing and developing regular political dialogue on bilateral and international issues of mutual interest,

TAKING ACCOUNT of the Community's willingness to provide technical assistance, as appropriate, for the implementation of economic reform in Russia and for the development of economic cooperation,

BEARING IN MIND the utility of the Agreement in favouring a gradual rapprochement between Russia and a wider area of cooperation in Europe and neighbouring regions and Russia's progressive integration into the open international trading system,

CONSIDERING the commitment of the Parties to liberalise trade, based on the principles contained in the General Agreement on Tariffs and Trade, hereinafter referred to as "GATT", as amended by the Uruguay Round Trade Negotiations, and taking into account the establishment of the World Trade Organisation, hereinafter referred to as "WTO",

RECOGNISING that Russia is no longer a state trading country; - it is now a country with an economy in transition -, continued progress towards a market economy will be fostered by cooperation between the Parties in the forms set out in this Agreement,

CONSCIOUS of the need to improve conditions affecting business and investment, and conditions in areas such as establishment of companies, labour, provision of services and capital movements,

CONVINCED that this Agreement will create a new climate for economic relations between the Parties and in particular for the development of trade and investment, which are essential to economic restructuring and technological modernization,

DESIROUS of establishing close cooperation in the area of environment protection taking into account the interdependence existing between the Parties in this field,

BEARING in mind the intention of the Parties to develop their cooperation in the space field in view of the complementarity of their activities in this area,

DESIROUS of promoting cultural cooperation and improving the flow of information,

Have agreed as follows:

Article 1

A Partnership is hereby established between the Community and its Member States of the one part, and Russia of the other part. The objectives of this partnership are:

- to provide an appropriate framework for the political dialogue between the Parties allowing the development of close relations between them in this field,
- to promote trade and investment and harmonious economic relations between the Parties based on the principles of market economy and so to foster sustainable development in the Parties,
- to strengthen political and economic freedoms,
- to support Russian efforts to consolidate its democracy and to develop its economy and to complete the transition into a market economy,
- to provide a basis for economic, social, financial and cultural cooperation founded on the principles of mutual advantage, mutual responsibility and support,
- to promote activities of joint interest,
- to provide an appropriate framework for the gradual integration between Russia and a wider area of cooperation in Europe,
- to create the necessary conditions for the future establishment of a free trade area between the Community and Russia covering substantially all trade in goods between them, as well as conditions for bringing about freedom of establishment of companies, of cross-border trade in services and of capital movements.

TITLE I : GENERAL PRINCIPLES

Article 2

Respect for the democratic principles and human rights as defined in particular in the Helsinki Final Act and the Charter of Paris for a New Europe underpin the internal and external policies of the Parties and constitute an essential element of partnership and of the present Agreement.

Article 3

The Parties undertake to consider development of the relevant titles of this Agreement, in particular Title III and Article 53, as circumstances allow, with a view to the establishment of a free trade area between them. The Cooperation Council may make recommendations on such developments to the Parties. Such development shall only be put into effect by virtue of an agreement between the Parties in accordance with their respective procedures. The Parties shall examine together in the year 1998 whether circumstances allow the beginning of negotiations on the establishment of a free trade area.

Article 4

The Parties undertake to examine together, by mutual consent, amendments which it may be appropriate to make to any part of the Agreement in view of changes in circumstances, and in particular of the situation arising from Russia's accession to GATT/WTO. The first examination shall take place three years after the entry into force of the Agreement or when Russia becomes a Contracting Party to GATT/WTO, whichever is earlier.

Article 5

1. **The most favoured nation treatment granted by Russia under this Agreement shall not apply during a transitional period expiring 5 years after the entry into force of this Agreement in relation to advantages defined in Annex 1 granted by Russia to other countries of the former USSR. This period may be extended where appropriate for specific sectors by mutual consent between the Parties.**

2. **In the case of the most favoured nation treatment granted under Title III the transitional period referred to in paragraph 1 shall expire three years after the entry into force of the Agreement or when Russia becomes a Contracting Party of GATT/WTO, whichever is earlier.**

TITLE II : POLITICAL DIALOGUE

Article 6

A regular political dialogue shall be established between the Parties which they intend to develop and intensify. It shall accompany and consolidate the rapprochement between the European Union and Russia, support the political and economic changes underway in Russia and contribute to the establishment of new forms of cooperation. The political dialogue:

- **shall strengthen the links between Russia and the European Union. The economic convergence achieved through this Agreement shall lead to more intense political relations;**

- **shall bring about an increasing convergence of positions on international issues of mutual concern thus increasing security and stability.**

- **shall foresee that the Parties endeavour to cooperate on matters pertaining to the observance of the principles of democracy and human rights and hold consultations if necessary, on matters related to their due implementation.**

Article 7

1. Meetings shall take place in principle twice a year between the President of the European Council and the President of the Commission of the European Communities on one side and the President of Russia on the other.

2. At ministerial level, political dialogue shall take place within the Cooperation Council established in Article 90 and on other occasions, including with the European Union Troika, by mutual agreement.

Article 8

Other procedures and mechanisms for political dialogue shall be set up by the Parties, and in particular in the following forms:

- biannual meetings at senior official level between the European Union Troika on the one hand, and officials of Russia on the other;

- taking full advantage of diplomatic channels;

- any other means, including the possibility of expert meetings, which would contribute to consolidating and developing this dialogue.

Article 9

Political dialogue at parliamentary level shall take place within the framework of the Parliamentary Cooperation Committee established in Article 95.

TITLE III: TRADE IN GOODS

Article 10

1. The Parties shall accord to one another the general most-favoured-nation treatment described in Article I paragraph 1 of the GATT.

2. The provisions of paragraph 1 shall not apply to:

(a) advantages accorded to adjacent countries in order to facilitate frontier traffic;

(b) advantages granted with the aim of creating a customs union or a free trade area or pursuant to the creation of such union or area. The terms "customs union" and "free trade area" shall have the same meaning as those described in paragraph 8 of Article XXIV of the GATT or created through the procedure indicated in paragraph 10 of the same GATT article;

(c) advantages granted to particular countries in accordance with the GATT and with other international arrangements in favour of developing countries.

Article 11

1. The products of the territory of one Party imported into the territory of the other Party shall not be subject, directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like domestic products.

2. Moreover, these products shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use. The provision of this paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.

3. Article III paragraphs 8, 9 and 10 of the GATT shall be applicable mutatis mutandis between the Parties.

Article 12

1. The Parties agree that the principle of freedom of transit is an essential condition of attaining the objectives of this Agreement. In this connection each Party shall provide for freedom of transit through its territory of goods originating in the customs territory or destined for the customs territory of the other Party.

2. The rules described in Article V, paragraphs 2, 3, 4 and 5 of the GATT shall be applicable between the Parties.

3)

Article 13

The following articles of the GATT shall be applicable mutatis mutandis between the Parties:

i) Article VII, paragraphs 1, 2, 3, 4 a), b) and d), 5;
ii) Article VIII;
iii) Article IX;
iv) Article X.

Article 14

Without prejudice to the rights and obligations stemming from international conventions on the temporary admission of goods which bind both Parties, each Party shall furthermore grant the other exemption from import charges and duties on goods admitted temporarily, in the instances and according to the procedures stipulated by any other international convention on this matter binding upon it, in conformity with its legislation. Such legislation shall be applied on a most-favoured nation basis and thus subject to the exceptions listed in Article 10 paragraph 2 of the present Agreement. Account shall be taken of the conditions under which the obligations stemming from such a convention have been accepted by the Party in question.

Article 15

1. Goods originating in Russia shall be imported into the Community free of quantitative restrictions without prejudice to the provisions of articles 17, 20 and 21 of the present Agreement and to the provisions of articles 77, 81, 244, 249 and 280 of the Acts of Accession of Spain and Portugal to the European Community.

2. Goods originating in the Community shall be imported into Russia free of quantitative restrictions without prejudice to the provisions of articles 17, 20 and 21 and of Annex 2 to the present Agreement.

Article 16

Until Russia becomes a Contracting Party to the GATT/WTO, the Parties shall hold consultations in the Cooperation Committee on their import tariff policies, including changes in tariff protection. In particular, such consultations shall be offered prior to the increase of tariff protection.

Article 17

1. Where any product is being imported into the territory of one of the Parties in such increased quantities and under such conditions as to cause or threaten to cause substantial injury to domestic producers of like or directly competitive products, the Community or Russia, which ever is concerned, may take appropriate measures in accordance with the following procedures and conditions.

2. Before taking any measures, or in cases to which paragraph 4 applies as soon as possible thereafter, the Community or Russia as the case may be shall supply the Cooperation Committee with all relevant information with a view to seeking a solution acceptable to both Parties. The Parties shall commence consultations promptly within the Cooperation Committee.

3. If, as a result of the consultations, the Parties do not reach agreement within 30 days of referral to the Cooperation Committee on actions to avoid the situation, the Party which requested consultations shall be free to restrict imports of the products concerned or to adopt other appropriate measures to the extent and for such time as is necessary to prevent or remedy the injury.

4. In critical circumstances where delay would cause damage difficult to repair, the Parties may take the measures before the consultations, on the condition that consultations shall be offered immediately after taking such action.

5. In the selection of measures under this Article, the Parties shall give priority to those which cause least disturbance to the achievement of the aims of this Agreement.

6. Where a safeguard measure is taken by one Party in accordance with the provisions of this article, the other Party shall be free to deviate from its obligations under Title III of this Agreement towards the first Party in respect of substantially equivalent trade.

   Such action shall not be taken before consultations have been offered by such other Party nor if agreement has been reached within 45 days following the date these consultations were offered.

7. The right of deviation from the obligations referred to in paragraph 6 shall not be exercised for the first three years that a safeguard measure is in effect, provided that the safeguard measure has been taken as a result of an absolute increase in imports, for the maximum period of four years, and in conformity with the provisions of this Agreement.

Article 18

Nothing in this Title, and in Article 17 in particular shall prejudice or affect in any way the taking, by either Party, of anti-dumping or countervailing measures in accordance with Article VI of the GATT, the Agreement on implementation of Article VI of the GATT, the Agreement on interpretation and application of Articles VI, XVI and XXIII of the GATT or related internal legislation.

In respect of antidumping or subsidy investigations, each Party agrees to examine submissions by the other Party and to inform the interested parties concerned of the essential facts and considerations on the basis of which a final decision is to be made. Before definitive antidumping and countervailing duties are imposed, the Parties shall do their utmost to bring about a constructive solution of the problem.

Article 19

The Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of natural resources; the protection of national treasures of artistic, historic or archaeological value or the protection of intellectual, industrial and commercial property or rules relating to gold and silver. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Parties.

Article 20

Title III shall not affect the provisions of the Agreement between the European Economic Community and the Russian Federation on trade in textile products initialled on 12 June 1993 and applied with retroactive effect as from 1 January 1993. Furthermore, Article 15 of the present Agreement shall not apply to trade in textile products falling under Chapters 50 to 63 of the combined nomenclature.

Article 21

1. Trade in products covered by the Treaty establishing the European Coal and Steel Community shall be governed by:

   - the provisions of this Title III, with the exception of Article 15; and

   - upon its entry into force, by the provisions of the agreement on quantitative arrangements concerning exchanges of ECSC steel products.

2. The establishment of a Contact Group on coal and steel matters is governed by Protocol No.1 annexed to this Agreement.

Article 22

Trade in Nuclear Materials

1. Trade in nuclear materials shall be covered by:

   - the provisions of this Agreement with the exception of Articles 15 and 17 paragraphs 1 to 5 and paragraph 7;

   - the provisions of Articles 6, 7, 14 and 15 paragraphs 1, 2, 3 - first sentence, and paragraphs 4 and 5 of the 1989 Agreement;

   - the attached exchange of letters.

2. Notwithstanding the provisions of paragraph 1 of this Article, the Parties agree to take all necessary steps to arrive at an arrangement covering trade in nuclear materials by 1 January 1997.

3. Until such an arrangement is reached, the provisions of this Article will continue to apply.

4. Steps will be taken to conclude an agreement regarding nuclear safeguards, physical protection and administrative cooperation in transfers of nuclear materials. Until such an agreement is in force, the respective legislation and international non-proliferation obligations of the Parties will be applicable as regards the transfer of nuclear materials.

5. For the purpose of the application of the regime provided for in paragraph 1:

   - the reference in Article 6 and Article 15 paragraph 5 of the 1989 Agreement to "this Agreement" shall be read as meaning the regime established by paragraph 1 of this Article;

   - the reference in Article 17 paragraph 6 of the present Agreement to "this Article" shall be read as meaning Article 15 of the 1989 Agreement;

   - the reference in articles 6, 7, 14 and 15 of the 1989 Agreement to the "Contracting Parties" shall be read as meaning the Parties to the present Agreement;

   - the reference to the "Joint Committee" in Article 15 of the 1989 Agreement shall mean the Cooperation Committee provided for under Article 92 of the present Agreement.

TITLE IV: PROVISIONS ON BUSINESS AND INVESTMENT

Chapter I : Labour conditions

Article 23

1. Subject to the laws, conditions and procedures applicable in each Member State, the Community and the Member States shall ensure that the treatment accorded to Russian nationals, legally employed in the territory of a Member State shall be free from any discrimination based on nationality, as regards working conditions, remuneration or dismissal, as compared to its own nationals.

2. Russia shall, subject to the conditions and modalities applicable in Russia, accord the treatment referred to in paragraph 1 to nationals of a Member State who are legally employed in its territory.

Article 24

Coordination of social security

The Parties shall conclude agreements in order:

(i) to adopt, subject to the conditions and modalities applicable in each Member State, the provisions necessary for the coordination of social security systems for workers of Russian nationality, legally employed in the territory of a Member State and where applicable for the members of their family, legally resident there. These provisions will in particular ensure that:

- all periods of insurance, employment or residence completed by such workers in the various Member States shall be added together for the purpose of pensions in respect of old age, invalidity and death and for the purpose of medical care for such workers and where applicable for such family members;

- any pensions in respect of old age, death, industrial accident or occupational disease, or of invalidity resulting therefrom, with the exception of the special non-contributory benefits, shall be freely transferable at the rate applied by virtue of the law of the debtor Member State or States;

- the workers in question shall where applicable receive family allowances for the abovementioned members of their family.

(ii) to adopt, subject to the conditions and modalities applicable in Russia, the provisions necessary to accord to workers who are nationals of a Member State and legally employed in Russia, and to members of their families legally resident there, treatment similar to that specified in the second and third indents of paragraph (i).

Article 25

The measures to be taken in accordance with Article 24 of the present Agreement shall not affect any rights or obligations arising from bilateral agreements linking Russia and the Member States where those agreements provide for more favourable treatment of nationals of Russia or of the Member States.

Article 26

The Cooperation Council shall examine which improvements can be made in working conditions for businessmen consistent with the international commitments of the Parties, including those set out in the document of the CSCE Bonn Conference.

Article 27

The Cooperation Council shall make recommendations for the implementation of Articles 23 and 26 of the present Agreement.

Chapter II: Conditions affecting the establishment and operation of companies

Article 28

1. The Community and its Member States of the one part and Russia of the other part, shall grant to each other treatment no less favourable than that accorded to any third country, with regard to conditions affecting the establishment of companies in their territories and this in conformity with the legislation and regulations applicable in each Party.

2. Without prejudice to the reservations listed in Annex 3, the Community and its Member States shall grant to Community subsidiaries of Russian companies a treatment no less favourable than that granted to other Community companies or to Community companies which are subsidiaries of any third country companies whichever is the better, in respect of their operation and this in conformity with their legislation and regulations.

3. Without prejudice to the reservations listed in Annex 4, Russia shall grant to Russian subsidiaries of Community companies a treatment no less favourable than that granted to other Russian companies or to Russian companies which are subsidiaries of any third country companies whichever is the better, in respect of their operation and this in conformity with its legislation and regulations.

4. The Community and its Member States of the one part and Russia of the other part shall grant to branches of Russian and Community companies respectively a treatment no less favourable than that accorded to branches of companies of any third country, in respect of their operation and this in conformity with their legislation and regulations.

5. The provisions of paragraphs 2 and 3 cannot be used so as to circumvent a Party's legislation and regulations applicable to access to specific sectors or activities by subsidiaries of companies of the other Party established in the territory of such first Party.

   The treatment referred to in paragraphs 2 and 3 shall benefit companies established in the Community and Russia respectively at the date of entry into force of this Agreement and companies established after that date once they are established.

Article 29

The provisions of Article 28 of the present Agreement together with the following provisions shall apply in respect of banking and insurance services referred to in Annex 6.

1. In respect of banking services referred to in Annex 6, part B, the nature of the treatment accorded by Russia under Article 28, paragraph 1, with regard to establishment by means of the setting up of subsidiaries only and under Article 28, paragraph 3, is set out in Annex 7, part A.

   In respect of insurance services referred to in Annex 6, part A, paragraphs 1 and 2, the nature of the treatment accorded by Russia under Article 28, paragraph 1, is set out in Annex 7, part B.

2. Notwithstanding any other provisions of this Agreement, a Party shall not be prevented from taking measures for prudential reasons, including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system. Such measures shall not be used as a means of avoiding the Party's obligations under the Agreement.

   Nothing in the Agreement shall be construed to require a Party to disclose information relating to the affairs and accounts of individual customers or any confidential or proprietary information in the possession of public entities.

3. Without prejudice to the provisions of Part A, paragraph 1, subparagraphs d and e of Annex 7, the Community and the Member States of the one part and Russia of the other part shall not adopt any new regulations or measures which would introduce or worsen discrimination as compared to the situation existing on the date of the signature of the Agreement as regards conditions affecting the establishment of the other Party's companies in their territories in comparison to their own companies.

   The parties agree that the terms "worsen discrimination" include the aggravation of discriminatory conditions or their extension or reintroduction after the current period of application.

4. For the purposes of this Agreement, as regards banking activities a company shall be regarded as a Russian subsidiary of a Community company when more than fifty percent (50%) of its share capital is held by the Community company.

(41)

Article 30

For the purposes of this Agreement:

a) "Establishment" shall mean the right of Community or Russian companies as referred to in paragraph (h) of this article to take up economic activities by means of the setting up of subsidiaries and branches in Russia or in the Community respectively.

In respect of financial services mentioned in Article 29, "establishment" shall mean the right of Community or Russian companies as referred to in paragraph (h) of this article to take up economic activities by means of the setting up of subsidiaries and branches in Russia or in the Community respectively after receiving a licence from the competent authorities in conformity with the legislation and regulations applicable in each Party.

b) "Subsidiary" of a company shall mean a company which is controlled by the first company.

c) "Economic activities" shall mean activities of an industrial, commercial or professional character, including financial services.

d) "Branch" of a company shall mean a place of business not having legal personality which has the appearance of permanency, such as the extension of a parent body, has a management and is materially equipped to negotiate business with third parties so that the latter, although knowing that there will if necessary be a legal link with the parent body, the head office of which is abroad, do not have to deal directly with such parent body but may transact business at the place of business constituting the extension.

e) "Community subsidiary" or "Russian subsidiary" respectively shall mean a "Community company" or a "Russian company" respectively, as hereafter defined, which is also a subsidiary of a "Russian company" or a "Community company" respectively.

f) A national of a Member State or of Russia respectively shall mean a natural person who is a national of one of the Member States or of Russia respectively in accordance with their respective legislation.

g) "Operation" shall mean the pursuit of economic activities.

In respect of financial services mentioned in Article 29, "operation" shall mean the pursuit of all the economic activities authorized by the licence granted to the Company by the competent authorities in conformity with the laws and regulations applicable in each Party.

h) A "Community company" or a "Russian company" respectively shall mean a company set up in accordance with the laws of a Member State or of Russia respectively and having its registered office or central administration, or principal place of business in the territory of the Community or Russia respectively. However, should the company, set up in accordance with the laws of a Member State or Russia respectively, have only its registered office in the territory of the Community or Russia respectively, the company shall be considered a Community or Russian company respectively if its operations possess a real and continuous link with the economy of one of the Member States or Russia respectively.

With regard to international maritime transport, shall also be beneficiaries of the provisions of this Chapter and Chapter III, shipping companies established outside the Community or Russia and controlled by nationals of a Member State or of Russia respectively, if their vessels are registered in that Member State or in Russia in accordance with their respective legislations.

For the purposes of this provision, international maritime transport shall be considered to include intermodal transport operations involving a sea leg without prejudice to applicable nationality restrictions concerning the carriage of goods and passengers by other transport modes.

i) For the purpose of Article 29 and Annex 7, with regard to banking services referred to in Annex 6, part B, "Russian subsidiary" or "Community subsidiary" as defined in paragraph e), shall refer to such a subsidiary which is a bank in accordance with the laws of Russia or a Member State respectively.

For the purpose of Article 29 and Annex 7, with regard to banking services referred to in Annex 6, part B, "Community company or "Russian company" as defined in paragraph h), shall refer to such a company which is a bank in accordance with the laws of a Member State or Russia respectively.

Article 31

Notwithstanding Article 100, the provisions of the present Title shall not prejudice the application by each Party of any measure necessary to prevent the circumvention, through the provisions of this Agreement, of its measures concerning third country access to its market.

Article 32

1. Notwithstanding the provisions of Chapter I of this Title, a Community company and a Russian company established in the territory of Russia or the Community respectively shall be entitled to employ, or have employed by one of its subsidiaries, branches or joint ventures, in accordance with the legislation in force in the host country of establishment, in the territory of Russia and the Community respectively, employees who are nationals of Member States and Russia respectively, provided that such employees are key personnel as defined in paragraph 2 of this Article, and that they are employed exclusively by companies, subsidiaries, branches or joint ventures. The residence and work permits of such employees shall only cover the period of such employment.

2. Key personnel of the above-mentioned companies herein referred to as "organizations" are "intra-corporate transferees" as defined in paragraph 2(c) of this Article in the following categories, provided that the organisation is a juridical person and that the persons concerned have been employed by it or have been partners in it (other than as majority shareholders), for at least the year immediately preceding such movement:

(a) Persons working in a senior position with an organisation, who primarily direct the management of the establishment (branch, subsidiary or joint venture) , receiving general supervision or direction principally from the board of directors or stockholders of the business or their equivalent, including:

- directing the establishment or a department or sub-division of the establishment;
- supervising and controlling the work of other supervisory, professional or managerial employees;
- having the authority personally to hire and fire or recommend hiring, firing or other personnel actions,

(b) Persons working within an organisation who possess uncommon knowledge essential to the establishment's service, research equipment, techniques or management. The assessment of such knowledge may reflect, apart from knowledge specific to the establishment, a high level of qualification referring to a type of work or trade requiring specific technical knowledge, including membership of an accredited profession.

(c) An "intra-corporate transferee" is defined as a natural person working within an organisation in the territory of a Party, and being temporarily transferred in the context of pursuit of economic activities in the territory of the other Party; the organisation concerned must have its principal place of business in the territory of a Party and the transfer be to an establishment of that organisation, effectively pursuing like economic activities in the territory of the other Party.

Article 33

The Parties recognize the importance of granting each other national treatment with regard to the establishment and, where not so foreseen herein, operation of each other's companies in their territories and agree to consider the possibility of movement towards this end on a mutually satisfactory basis, and in the light of any recommendations by the Cooperation Council.

Article 34

1. The Parties shall use their best endeavours to avoid taking any measures or actions which render the conditions for the establishment and operation of each other's companies more restrictive than the situation existing on the day preceding the date of signature of the Agreement.

2. By the end of the third year after signature of the Agreement at the latest, and thereafter at annual intervals the Parties shall examine within the Cooperation Council:

   - measures introduced by either Party since the signature of the Agreement which affect the establishment or operation of companies of one Party in the territory of the other Party, and which are the subject of commitments assumed in Article 28; and

   - whether it is possible for the Parties to assume

     - the obligation not to take any measures or actions which may render the conditions for the establishment and operation of each other's companies more restrictive than the situation existing at the time of such examination, where not already foreseen herein, or

     - other obligations affecting their freedom of action

     in areas agreed between the Parties in respect of the commitments assumed in Article 28.

If after such examination one Party is of the view that measures introduced by the other Party since the signature of the Agreement result in a situation which is significantly more restrictive in respect of establishment or operation of companies of the first Party in the territory of the other Party as compared with the situation existing at the date of signature of the Agreement, such Party may request the other Party to enter into consultations. In such case the provisions of Part A of Annex 8 shall apply.

3. In furtherance of the aims of this article, measures shall be taken as indicated in Part B of Annex 8.

4. The provisions of this article are without prejudice to those of Article 51: the situations covered by such Article 51 shall be solely governed by its provisions to the exclusion of any other.

Article 35

1. Article 28 shall not apply to air transport, inland waterways transport and maritime transport.

2. However, in respect of activities, as indicated below, undertaken by shipping agencies for the provision of services to international maritime transport, including intermodal transport operations involving a sea-leg, each Party shall permit to the companies of the other Party to have a commercial presence in its territory in the form of subsidiaries or branches, under conditions of establishment and operation no less favourable than those accorded to its own companies or to subsidiaries or branches of companies of any third country, whichever are the better, and this in conformity with the legislation and regulations applicable in each Party.

3. Such activities include:

(a) marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing;

(b) purchase and resale of any transport and related services, including transport services by any inland mode, necessary for the supply of an intermodal service;

(c) preparation of documentation concerning transport documents, customs documents, or other documents related to the origin and character of the goods transported;

(d) provision of business information by any means, including computerised information systems and electronic data interchange (subject to any non-discriminatory restrictions concerning telecommunications);

(e) setting up of any business arrangement with other shipping agencies;

(f) acting on behalf of the companies, inter alia in organising the call of the vessel or taking over cargoes when required.

Chapter III: Cross border supply of services

Article 36

For the sectors listed in Annex 5 to this Agreement, the Parties shall grant each other treatment no less favourable than that accorded to any third country with regard to the conditions affecting the cross border supply of services, by Community or Russian companies into the territory of Russia or the Community respectively, pursuant to the legislation and regulations applicable in each Party.

Article 37

Subject to the provisions of Article 48 of the present Agreement, the Parties shall permit for the sectors listed in Annex 5 to this Agreement the temporary movement of natural persons, who are representatives of a Community or a Russian company and are seeking temporary entry for the purpose of negotiating for the sales of cross-border supply services or entering into agreements to sell cross-border services for that company, where those representatives will not be engaged in making direct sales to the general public or in supplying services themselves.

Article 38

1. For the sectors listed in Annex 5, each Party may regulate the conditions of cross border supply of services into its territory. Insofar as these regulations are of general application they shall be administered in a reasonable, objective and impartial manner.

2. Paragraph 1 is without prejudice to the provisions of Article 36 and Article 50.

3. By the end of the third year after signature of the Agreement at the latest, the Parties shall examine within the Cooperation Council:

   - measures introduced by either Party since the signature of the Agreement which affect the cross-border supply of services covered by Article 36

   - whether it is possible for the Parties to assume

     - the obligation not to take any measures or actions which may render the conditions for the cross-border supply of services covered by Article 36 more restrictive than the situation existing at the time of such examination

- other obligations affecting their freedom of action

in areas agreed between the Parties in respect of the commitments assumed in Article 36.

If after such examination one Party is of the view that measures introduced by the other Party since the signature of the Agreement result in a situation which is significantly more restrictive in respect of cross-border supply of services covered by Article 36 as compared with the situation existing at the date of signature of the Agreement, such first Party may request the other Party to enter into consultations. In such case the provisions of Part A of Annex 8 shall apply.

4. In furtherance of the aims of this article, measures shall be taken as indicated in Part B of Annex 8.

5. The provisions of this article are without prejudice to those of Article 51: the situations covered by such Article 51 shall be solely governed by its provisions to the exclusion of any other.

Article 39

1. With regard to maritime transport, the Parties undertake to apply effectively the principle of unrestricted access to the international market and traffic on a commercial basis.

   a) The above provision does not prejudice the rights and obligations arising under the United Nations Convention on a Code of Conduct for Liner Conferences, as applicable for a Party to the present Agreement. Non-conference lines shall be free to operate in competition with a conference as long as they adhere to the principle of fair competition on a commercial basis.

   b) The Parties affirm their commitment to a freely competitive environment as being an essential feature of the dry and liquid bulk trade.

2. In applying the principles of paragraph 1, the Parties shall:

   a) not apply, in their mutual trades, as from entry into force of this Agreement, any cargo sharing provisions of bilateral agreements between any Member State and the former USSR;

(5)

b) not introduce cargo sharing arrangements in future bilateral agreements with third countries concerning dry and liquid bulk and liner trade. However, this does not exclude the possibility of such arrangements concerning liner cargo in those exceptional circumstances where liner shipping companies from one or other Party to the present Agreement would not otherwise have an effective opportunity to ply for trade to and from the third country concerned;

c) abolish, upon entry into force of this Agreement, all unilateral measures, administrative, technical and other obstacles which could constitute a disguised restriction or have discriminatory effects on the free supply of services in international maritime transport.

Each Party shall grant, inter alia, a treatment no less favourable than that accorded to a Party's own vessels, for vessels used for the transport of goods, passengers or both, and flying the flag of the other Party, with respect to access to ports open to foreign vessels, the use of infrastructure and auxiliary maritime services of those ports, as well as related fees and charges, customs facilities and the assignment of berths and facilities for loading and unloading.

3. The Parties agree that, following the entry into force of this Agreement and not later than 31 December 1996, they will conduct negotiations on the stage-by-stage opening of the inland waterways of each Party to the nationals and shipping companies of the other Party, in respect of the freedom to provide international sea-river services.

Article 40

For the purpose of establishing favourable conditions for rail transport between the Parties, it is agreed that both Parties will, in the framework of this Agreement and through appropriate bilateral and multilateral mechanisms, promote:

- the facilitation of customs and other border clearance procedures for freight and for rolling stock;

- cooperation in the creation of suitable rolling stock meeting the requirements of international traffic;

- the approximation of regulations and procedures which govern international transport;

- the safeguarding and development of international passenger traffic between Russia and the Member States.

Article 41

Cooperation shall ensure fair, balanced and competitive conditions for the space launching and transportation market based on sound economic factors and, in particular, steps will be taken to promote the negotiation and implementation of multilateral rules regarding international trade in space launching and transportation services.

During the transitional period to the year 2000, conditions for the supply of space launch services shall be agreed upon.

Article 42

The Parties shall endeavour to provide each other every assistance possible as regards measures promoting cross-border trade in mobile satellite communications on their respective territories, in conformity with their respective legislation, practices and conditions, applied by each Party. In 1996, the Parties will meet to consider the possibilities of granting to each other MFN treatment for mobile satellite services.

Article 43

With a view to assuring a coordinated development of transport between the Parties,adapted to their commercial needs, the Parties may, after the entry into force of this Agreement, conclude specific Agreements regarding the conditions of mutual market access and of provision of services in the transport sector, to the extent that these conditions are not already addressed by this Agreement. Such agreements may apply to more than one or to a single mode of transport.

Chapter IV: General Provisions

Article 44

For the purposes of Chapters II, III and Title V, no account shall be taken of treatment accorded by the Community, its Member States or Russia pursuant to commitments entered into in economic integration agreements.

Article 45

Companies which are controlled and exclusively owned by Russian companies and Community companies jointly shall also be beneficiaries of the provisions of Chapters II and III of this Title and of Title V.

Article 46

1. The provisions of this Title shall be applied subject to limitations justified on grounds of public policy(1), public security or public health.

2. They shall not apply to activities which in the territory of either Party are connected, even occasionally, with the exercise of official authority.

Article 47

The Cooperation Council shall make recommendations for the further liberalization of trade in services, taking into account the development of the services sectors in the Parties and the other international commitments entered into by the Parties, in particular in the light of the final results of the negotiations of the General Agreement on Trade in Services, hereinafter referred to as "GATS".

Article 48

For the purpose of Title IV of this Agreement, nothing in the Agreement shall prevent the Parties from applying their laws and regulations regarding entry and stay, work, labour conditions and establishment of natural persons and supply of services, provided that, in so doing, they do not apply them in a manner as to nullify or impair the benefits accruing to any Party under the terms of a specific provision of the Agreement. The above provision does not prejudice the application of Article 46.

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(1) To be translated in Russian as "obschestvenniy poriadok".

Article 49

a) The Most Favoured Nation treatment granted in accordance with the provisions of Title IV or Title V shall not apply to the tax advantages which the Parties are providing or will provide in the future on the basis of agreements to avoid double taxation, or other tax arrangements.

b) Nothing in Title IV or Title V shall be construed to prevent the adoption or enforcement by the Parties of any measure aimed at preventing the avoidance or evasion of taxes pursuant to the tax provisions of agreements to avoid double taxation and other tax arrangements, or domestic fiscal legislation.

c) Nothing in Title IV or Title V shall be construed to prevent Member States or Russia from distinguishing, in the application of the relevant provisions of their fiscal legislation, between taxpayers who are not in identical situations in particular as regards their place of residence.

Article 50

Without prejudice to Articles 32 and 37, no provision of Chapters II, III and IV hereof shall be interpreted as giving the right to:

- nationals of the Member States or of Russia respectively to enter, or stay in, the territory of Russia or the Community respectively in any capacity whatsoever, and in particular as a shareholder or partner in a company or manager or employed thereof or supplier or recipient of services;

- Community subsidiaries or branches of Russian companies to employ or have employed in the territory of the Community nationals of Russia;

- Russian subsidiaries or branches of Community companies to employ or have employed in the territory of Russia nationals of the Member States;

- Russian companies or Community subsidiaries or branches of Russian companies to supply workers who are Russian nationals to act for and under the control of other persons by temporary employment contracts;

- Community companies or Russian subsidiaries or branches of Community companies to supply workers who are nationals of the Member States to act for and under the control of other persons by temporary employment contracts.

Article 51

1. Treatment granted by either Party to the other hereunder shall, as from the day one month prior to the date of entry into force of the relevant obligations of the GATS, in respect of sectors or measures covered by the GATS, in no case be more favourable than that accorded by such first Party under the provisions of the GATS, and this, in respect of each service sector, sub-sector and mode of supply.

2. Without prejudice to the automatic nature of the provisions of paragraph 1, the Party which has assumed obligations under the GATS shall inform the other of the appropriate provisions and the adaptions resulting therefrom for this Agreement.

3. Within one month of receipt from the Party, which has assumed obligations under the GATS, of the information referred to in paragraph 2 above, the other Party may notify the first Party of its intention to make adjustments to its obligations under this Title, and make those adjustments as follows:

   - where a service sector, sub-sector or mode of supply of a service has been excluded from the Agreement, its scope reduced or made subject to the fulfilment of conditions pursuant to paragraph 1, the identical sector, sub-sector or mode of supply may be excluded or its scope reduced in the same way or made subject to the fulfilment of identical or similar conditions.

4. These adjustments made by the second Party should lead to the re-establishment of a balance of obligations between the Parties.

5. In the case that a Party considers that the adjustments made under paragraph 3 have not led to the re-establishment of the balance of obligations between the Parties, such Party may request the other Party, to enter into consultations within 30 days in order to find a satisfactory solution by means of any other appropriate adjustment of its obligations under this Title.

6. If within 30 days of the opening of such consultations no satisfactory solution has been found, the procedures of Article 101 will be applicable at the request of either Party.

TITLE V: PAYMENTS AND CAPITAL

Article 52

1. The Parties undertake to authorize in freely convertible currency, any current payments between residents of the Community and of Russia connected with the movement of goods, services or persons made in accordance with the provisions of the present Agreement.

2. The free movement of capital between residents of the Community and of Russia in the form of direct investment made in companies formed in accordance with the laws of the host country, and direct investment made in accordance with the provisions of Chapter II of Title IV, and the transfer abroad of this investment, including any compensation payments arising from measures such as expropriation, nationalisation or measures of equivalent effect, and of any profit stemming therefrom shall be ensured.

3. The provisions of paragraph 2 shall not prevent Russia from applying restrictions on outward direct investment by Russian residents. Five years after the entry into force of this Agreement the Parties agree to consult over the maintenance of these restrictions, taking into account all the relevant monetary, fiscal and financial considerations.

4. Transfers in respect of capital movements covered under paragraph 2 shall be made on the same exchange rate conditions as those relating to current transactions.

5. Without prejudice to Paragraphs 6 and 7, after a transitional period of 5 years as from entry into force of this Agreement, the Parties shall not introduce any new restrictions on the movement of capital and current payments connected therewith between residents of the Community and Russia and shall not make the existing arrangements more restrictive. However, the introduction of restrictions during the transitional period referred to in the first sentence of this paragraph shall not affect the rights and obligations of the Parties under paragraphs 2, 3, 4 and 9 of this article.

6. After the prohibition in paragraph 5 has come into effect and without prejudice to Paragraphs 1 and 2 where, in exceptional circumstances, movements of capital between the residents of the Community and Russia cause, or threaten to cause, serious difficulties for the operation of exchange rate policy or monetary policy in the Community or Russia, the Community and Russia, respectively, may take safeguard measures with regard to movements of capital between the Community and Russia for a period not exceeding six months if such measures are strictly necessary.

7. With reference to the provisions of this Article, until a full convertibility of the Russian currency within the meaning of Article VIII of the articles of agreement of the International Monetary Fund (IMF) is introduced, Russia may apply exchange restrictions connected with the granting or taking up of short and medium-term financial credits to the extent that such restrictions are imposed on Russia for the granting of such credits and are permitted according to Russia's status under the IMF.

   Russia shall apply these restrictions in a non-discriminatory manner. They shall be applied in such a manner as to cause the least possible disruption to this Agreement. Russia shall inform the Cooperation Council promptly of the introduction of such measures and of any changes therein.

8. The Parties shall consult each other with a view to facilitate the movement of capital between the Community and Russia in order to promote the objectives of the present Agreement. The Parties shall particularly endeavour to further liberalize movements of capital related to portfolio investment and commercial credits, and movements of capital related to financial loans and credits granted by Community residents to Russian residents. The Cooperation Council shall make appropriate recommendations within the first five years after entry into force of this Agreement.

9. The Parties shall accord to one another most-favoured nation treatment in respect of freedom of current payments and capital movements and in respect of methods of payment.

TITLE VI: COMPETITION. INTELLECTUAL, INDUSTRIAL AND COMMERCIAL PROPERTY PROTECTION. LEGISLATIVE COOPERATION

Article 53

Competition

1. The parties agree to work to remedy or remove through the application of their competition law or otherwise restrictions on competition by enterprises or caused by state intervention insofar as they may affect trade between the Community and Russia.

2. In order to attain the objectives mentioned in paragraph 1:

2.1 The Parties shall ensure that they have and enforce laws addressing restrictions on competition by enterprises within their jurisdiction.

2.2 The Parties shall refrain from granting export aids favouring certain undertakings or the production of products other than primary products. The Parties also declare their readiness, as from the third year from the date of entry into force of this Agreement, to establish for other aids which distort or threaten to distort competition insofar as they affect trade between the Community and Russia, strict disciplines, including the outright pronibition of certain aids. These categories of aids and the disciplines applicable to each shall be defined jointly within a period of three years after entry into force of this Agreement.

Upon request by one Party, the other Party shall provide information on its aid schemes or in particular individual cases of State aid.

2.3 During a transitional period expiring five years after the entry into force of the Agreement, Russia may take measures inconsistent with paragraph 2.2, second sentence, provided that these measures are introduced and applied in the circumstances referred to in annex 9.

2.4 In the case of State monopolies of a commercial character, the Parties declare their readiness, as from the third year from the date of entry into force of this Agreement, to ensure that there is no discrimination between nationals and companies of the Parties regarding the conditions under which goods are procured or marketed.

In the case of public undertakings or undertakings to which Member States or Russia grant exclusive rights, the Parties declare their readiness, as from the third year from the date of entry into force of this Agreement, to ensure that there is neither enacted nor maintained any measure distorting trade between the Community and Russia to an extent contrary to the Parties' respective interests. This provision shall not obstruct the performance, in law or fact, of the particular tasks assigned to such undertakings.

(6)

2.5 The period defined in paragraphs 2.2 and 2.4 may be extended by agreement of the Parties.

3. Consultations may take place within the Cooperation Committee at the request of the Community or Russia on the restrictions or distortions of competition referred to in paragraphs 1 and 2 and on the enforcement of their competition rules, subject to limitations imposed by laws regarding disclosure of information, confidentiality and business secrecy. Consultations may also comprise questions on the interpretation of paragraphs 1 and 2.

4. A Party with experience in applying competition rules shall give full consideration to providing the other Party, upon request and within available resources, technical assistance for the development and implementation or competition rules.

5. The above provisions in no way affect a Party's rights to apply adequate measures, notably those referred to in Article 18, in order to address distortions of trade.

Article 54

Intellectual, Industrial and Commercial Property Protection

1. Pursuant to the provisions of this Article and Annex 10, the Parties confirm the importance they attach to ensure adequate and effective protection and enforcement of intellectual, industrial and commercial property rights.(2)

2. The Parties confirm the importance they attach to the obligations arising from the following multilateral conventions:
   - Paris Convention for the Protection of Industrial Property (Stockholm Act, 1967 and amended in 1978);
   - Madrid Agreement concerning the International Registration of Marks (Stockholm Act, 1967, and amended in 1979);
   - Nice Agreement concerning the International Classification of Goods and Services for the purposes of the Registration of Marks (Geneva 1977, and amended in 1979);
   - Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the purposes of Patent Procedures (1977, modified in 1980);
   - Patent Cooperation Treaty (Washington 1970, amended and modified in 1980).
   - Protocol relating to the Madrid Agreement concerning the International Registration of Marks (Madrid, 1989).

3. The implementation of the provisions of this article and Annex 10 shall be regularly reviewed by the Parties in accordance with Article 90. If problems in the area of intellectual, industrial and commercial property affecting trading conditions were to occur, urgent consultations shall be undertaken, at the request of either Party, with a view to reaching mutually satisfactory solutions.

(2) The term "intellectual, industrial and commercial property" will be translated into Russian by "intellectual'naya sobstvennost".

Article 55

Legislative Cooperation

1. The Parties recognize that an important condition for strengthening the economic links between Russia and the Community is the approximation of legislation. Russia shall endeavour to ensure that its legislation shall be gradually made compatible with that of the Community.

2. The approximation of laws shall extend to the following areas in particular: company law, banking law, company accounts and taxes, protection of workers at the workplace, financial services, rules on competition, public procurement, protection of health and life of humans, animals and plants, the environment, consumer protection, indirect taxation, customs law, technical rules and standards, nuclear laws and regulations, transport.

TITLE VII: ECONOMIC COOPERATION

Article 56

1. The Community and Russia shall foster economic cooperation of wide scope in order to contribute to the expansion of their respective economies, to the creation of a supportive international economic environment and to the integration between Russia and a wider area of cooperation in Europe. Such cooperation shall strengthen and develop economic links to the benefit of both Parties.

2. Policies and other measures of the Parties related to this title shall in particular be designed to bring about economic and social reforms and restructuring in Russia and shall be guided by the requirements of sustainability and harmonious social development; they shall also fully incorporate environmental considerations.

3. The cooperation shall, inter alia, cover:

   - development of their respective industries and transport;
   - exploration of new sources of supply and of new markets;
   - encouragement of technological and scientific progress;
   - encouragement of a stable social and human resources development and of local employment development;
   - promotion of the regional cooperation with the aim of its harmonious and sustainable development.

4. The Parties consider it essential that, alongside with establishing a relationship of partnership and cooperation with each other, they maintain and develop cooperation with other European states and with the other countries of the former USSR with a view to a harmonious development of the region and shall make every effort to encourage this process .

5. As far as applicable economic and other forms of cooperation provided for in this Agreement may be supported by the Community on the basis of the relevant Council regulations on technical assistance to the countries of the former USSR, taking into account the priorities agreed upon by the Parties. Support may also be provided through such other relevant Community instruments as may be available.

   Special attention shall be devoted by the Parties to measures capable of fostering cooperation with the other countries of the former USSR.

6. The provisions of this Title shall not affect the enforcement of the Parties' competition rules and of the specific competition provisions of this agreement applicable to undertakings.

Article 57

Industrial cooperation

1. Cooperation shall aim at promoting in particular:

   - the development of business links between economic operators, including small and medium-size enterprises.
   - the improvement of management on enterprise level;
   - the process of privatisation in the context of economic restructuring, and the strengthening of the private sector;
   - efforts in both public and private sector, to restructure and modernize the industry, during the transition period leading towards a market economy and under conditions ensuring environment protection and sustainable development;
   - the conversion of defence industries;
   - the development of appropriate market-based commercial rules and practices as well as the transfer of know-how.

2. Industrial cooperation initiatives shall take into account priorities determined by the Community and by Russia. The initiatives should seek in particular to establish a suitable framework for undertakings, to improve management know-how and to promote transparency as regards markets and conditions for undertakings.

Article 58

Investment promotion and protection

1. Bearing in mind the respective powers and competences of the Community and the Member States, cooperation shall aim to establish a favourable climate for investment, both domestic and foreign, especially through better conditions for investment protection, the transfer of capital and the exchange of information on investment opportunities.

2. The aims of this cooperation shall be in particular:

   - the conclusion, where appropriate, between the Member States and Russia of agreements for the promotion and protection of investment;
   - the conclusion, where appropriate, between the Member States and Russia of agreements to avoid double taxation;
   - to exchange information on investment opportunities in the form of inter alia trade fairs, exhibitions, trade weeks and other events;
   - to exchange information on laws, regulations and administrative practices in the field of investment.

Article 59

Public Procurement

The Parties shall cooperate to develop conditions for open and competitive award of public procurement contracts, in particular through calls for tenders.

Article 60

Standards and conformity assessment; consumer protection

1. **Within the limits of their competence, and in accordance with their legislation the Parties shall take measures with a view to reducing the differences which exist between the Parties in the fields of metrology, standardisation and certification by encouraging the use of internationally agreed instruments in those fields.**

   The Parties shall closely cooperate in the above-mentioned areas with the relevant European and other international organisations;

   The Parties shall, in particular, encourage practical interaction of their respective organisations, with the aim of starting to negotiate mutual recognition agreements in the field of conformity assessment activities.

2. **The Parties shall enter in close cooperation with a view to achieving compatibility between their systems of consumer protection.**

   This cooperation shall be aimed in particular at establishment of permanent systems of mutual information on dangerous products, the improvement of information provided to consumers especially on prices, characteristics of products and services offered, the development of exchanges between the consumer interest representatives, and increasing the compatibility of consumer protection policies.

Article 61

Mining and raw materials

1. The Parties shall cooperate with a view to fostering the development of the sectors of mining and raw materials. Special attention shall be paid to cooperation in the sector of non-ferrous metals.

2. The cooperation shall focus in particular on the following areas:

   - exchange of information on all matters of interest to the Parties concerning the mining and raw materials sectors , including trade matters;
   - the adoption and implementation of environmental legislation;
   - training.

3. Such cooperation shall be regularly reviewed by the Parties in a special committee or body to be set up in accordance with the provisions of Article 93.

4. This article is without prejudice to articles dealing more specifically with raw materials, in particular Articles 21, 65 and 66.

Article 62

Science and technology

1. The Parties shall promote bilateral cooperation in civil scientific research and technological development (RTD) on the basis of mutual benefit and, taking into account the availability of resources, adequate access to their respective programmes and subject to appropriate levels of effective protection of intellectual, industrial and commercial property rights (IPR).

2. Science and technology cooperation shall cover:

   - the exchange of scientific and technical information;
   - joint RTD activities;
   - training activities and mobility programmes for scientists, researchers and technicians engaged in RTD on both sides.

   Where such cooperation takes the form of activities involving education and/or training, it should be carried out in accordance with the provisions of Article 63.

   In carrying out such cooperation activities, special attention shall be devoted to the redeployment of scientists, engineers, researchers and technicians which are or have been engaged in research on/and production of weapons of mass destruction.

3. Such Cooperation shall be implemented according to specific arrangements to be negotiated and concluded in accordance with the procedures adopted by each party, and which shall set out, inter alia, appropriate IPR provisions.

Article 63

Education and training

1. The Parties shall cooperate with the aim of raising the level of general education and professional qualifications both in the public and private sectors.

2. The cooperation shall focus in particular on the following areas:

   - updating higher education and training systems in Russia;
   - the training of public and private sector executives and senior civil servants in priority areas to be determined;
   - cooperation between universities, cooperation between universities and firms;
   - mobility for teachers, graduates, young scientists and researchers, administrators and young people;
   - promoting teaching in the field of European Studies within the appropriate institutions;
   - teaching languages of the Community and of Russia;
   - postgraduate training of conference interpreters;
   - training of journalists;
   - exchange of methods of training and promotion of use of modern training programmes and technical facilities;
   - development of distant education and new training technologies;
   - training of trainers;

3. The participation of one Party in the respective programmes in the field of education and training of the other Party could be considered in accordance with their respective procedures and, where appropriate, institutional frameworks and plans of cooperation could then be established building on participation of Russia in the Community's TEMPUS programme.

Article 64

Agriculture and the agro-industrial sector

1. Cooperation shall aim at the modernisation, restructuring and privatisation of agriculture and the agro-industrial sector in Russia in conditions which ensure that the environment is respected. This cooperation shall be through, inter alia, developing private farm and distribution channels, methods of storage, marketing and management, modernising the rural infrastructure and improvement of agricultural land-use planning, improving productivity, quality and efficiency, and the transfer of technology and know-how. The Parties shall aim at achieving compatibility between their sanitary and phytosanitary standards.

Article 65

Energy

1. Cooperation shall take place within the principles of the market economy and the European Energy Charter, against a background of the progressive integration of the energy markets in Europe.

2. The cooperation shall include among others the following areas:

   - improvement of the quality and security of energy supply in an economic and environmentally sound manner;

   - formulation of energy policy;

   - improvement in management and regulation of the energy sector in line with a market economy;

   - the introduction of the range of institutional, legal, fiscal and other conditions necessary to encourage increased energy trade and investment

   - promotion of energy saving and energy efficiency;

   - modernisation of energy infrastructure, including interconnection of gas supply and electricity networks;

   - the environmental impact of energy production supply and consumption, in order to prevent or to minimise the environmental damage resulting from these activities.

   - improvement of energy technologies in supply and end use across the range of energy types;

   - management and technical training in the energy sector.

(7)

Article 66

Nuclear sector

Bearing in mind the respective powers and competences of the Community and its Member States, civil cooperation in the nuclear sector shall take place inter alia through the implementation of two agreements on thermonuclear fusion, and on nuclear safety to be agreed upon between the Parties.

Article 67

Space

Without prejudice to Article 41, the Parties shall promote long term cooperation as appropriate in the areas of civil space research development and commercial application. They shall pay particular attention to initiatives making on mutual beneficial basis full use of the complementarity of their respective activities.

Article 68

Construction

The Parties shall cooperate in the field of construction industry, particularly in the areas covered by Articles 55, 57, 60, 62, 63 and 77 of this agreement.

This cooperation shall, inter alia, aim at modernising and restructuring the construction sector in Russia in line with the principles of a market economy and duly taking into account related health, safety and environmental aspects.

Article 69

Environment

1. Bearing in mind the European Energy Charter and the Declaration of the Lucerne Conference of 1993, the Parties shall develop and strengthen their cooperation on environment and human health.

2. Cooperation shall aim at combating the deterioration of the environment and in particular:

   - effective monitoring of pollution levels and assessment of environment; system of information on the state of the environment;
   - combating local, regional and transboundary air and water pollution;
   - ecological restoration;

- sustainable, efficient and environmentally effective production and use of energy; . safety of industrial plants;
- classification and safe handling of chemicals;
- water quality;
- waste reduction, recycling and safe disposal, implementation of the Basle Convention;
- the environmental impact of agriculture, soil erosion, and chemical pollution;
- the protection of forests;
- the conservation of biodiversity, protected areas and sustainable use and management of biological resources;
- land-use planning, including construction and urban planning;
- use of economic and fiscal instruments;
- global climate change;
- environmental education and awareness.
- implementation of the Espoo Convention on Environmental Impact Assessment in a transboundary context.

3. Cooperation shall take place particularly through:

- disaster planning and other emergency situations;
- exchange of information and experts, including information and experts dealing with the transfer of clean technologies and the safe and environmentally sound use of biotechnologies;
- joint research activities;
- improvement of laws (Community standards);
- cooperation at regional level (including cooperation within the framework of the European Environment Agency established by the Community and at international level;
- development of strategies, particularly with regard to global and climatic issues and also in view of achieving sustainable development;
- environmental impact studies;

Article 70

Transport

The Parties shall develop and strengthen their cooperation in the field of transport.

This cooperation shall, inter alia, aim at restructuring and modernizing transport systems and networks in Russia and developing and ensuring, where appropriate, compatibility of transportation systems in the context of achieving a more global transportation system.

The cooperation shall include, inter alia:

- the modernizing of management and operations of road transport, railways, ports and airports;

- modernization and development of railways, waterways, road, port, airport and air navigation infrastructure including the modernization of major routes of common interest and the transeuropean links for the above modes;
- promotion and development of multimodal transport;
- the promotion jointly of R and D programmes;
- preparation of the legislative and institutional framework for policy development and implementation including privatisation of the transport sector.

Article 71

Postal services and Telecommunications

1. The Parties shall expand and strengthen cooperation in this area with the aim of gradual integration at the technical level of their respective telecommunications and postal networks. To this end they shall initiate notably the following actions:

   - exchange information on telecommunications and postal services and TV and broadcasting policies
   - exchange technical and other information, conduct training and advisory operations
   - carry out transfer of technology and know-how
   - have the appropriate bodies from both sides elaborate and carry out joint projects
   - promote new communication facilities first of all for the needs of commercial and public institutions
   - promote European technical standards, systems of certification and regulatory approaches
   - cooperate in securing the communication in critical circumstances, consult each other on elaboration of guidelines for operator cooperation in conditions of catastrophes etc.

2. These activities shall focus, inter alia, on the following priority areas:

   - development and modernisation of an integrated telecommunications sector in Russia in the framework of market reforms and creation of an appropriate regulatory basis;
   - modernization of Russia's telecommunications network and its integration at the technical level into European and world networks;
   - cooperation in development of systems of information exchange and data transmission between organizations of the Community and Russia;
   - integration at the technical level of transeuropean telecommunications networks;
   - modernization of Russia's postal and broadcasting services, including legal and regulatory aspects;

- the management of telecommunications, postal, TV and broadcasting services in the changing economic environments of both parties, including inter alia, organizational structures, strategy and planning, tariff policy, purchasing principles.

Article 72

Financial Services

The Parties shall cooperate with the aim of establishing and developing a suitable framework for the banking, insurance and other financial services sector in Russia adapted to the needs of market economy.

The cooperation shall focus on:

- developing accounting standards which are suitable for a free market economy and which are compatible with the standards adopted by EC Member States;

- restructuring of the banking, insurance and financial system;

- improvement of monitoring and regulation of the banking, insurance and financial services sector;

- developing compatible auditing systems;

- exchange of information on the respective laws in force or under preparation;

- modern infrastructure of commercial and private banks.

Article 73

Regional development

The Parties shall strengthen cooperation between them on regional development and land-use planning.

They shall encourage exchange of information by national, regional and local authorities on regional and land-use planning policy and on methods of formulation of regional policies, with special emphasis on the development of disadvantaged areas.

They shall encourage direct contacts between the respective regions and public organisations responsible for regional development planning with the aim, inter alia, to exchange methods and forms of regional development fostering.

(8)

Article 74

Social cooperation

1. With regard to health and safety, the parties shall develop cooperation between them with the aim of improving the level of protection of the health and safety of workers.

   The cooperation shall include notably:

   - education and training on health and safety issues with specific attention to high risk sectors of activity;
   - development and promotion of preventive measures to combat work related diseases and other work related ailments;
   - prevention of major accidents hazards and the management of toxic chemicals;
   - research to develop the knowledge base in relation to working environment and the health and safety of workers.

2. With regard to employment, the cooperation shall include notably technical assistance to:

   - optimization of the labour market;
   - modernisation of the job-finding and consulting services;
   - planning and management of the restructuring programmes;
   - encouragement of local employment development;
   - exchange of information on the programmes of flexible employment, including those stimulating self-employment and promoting entrepreneurship.

3. The Parties shall pay special attention to cooperation in the sphere of social protection which, inter alia, shall include cooperation in planning and implementing social protection reforms in Russia.

   These reforms shall aim to develop in Russia methods of protection intrinsic to market economies and shall comprise all directions of social security activities.

   The cooperation shall also include technical assistance to the development of social insurance institutions with the aim of promoting gradual transition to a system consisting of a combination of contributory and social assistance forms of protection, as well as respective non-governmental organisations providing social services.

Article 75

Tourism

The Parties shall increase and develop cooperation between them, which shall include :

- facilitating the tourist trade ;
- cooperation between official tourism bodies;
- increasing the flow of information;
- transferring know-how;
- studying the opportunities for joint operations.

Article 76

Small and medium-sized enterprises

1. The Parties shall aim to develop and strengthen small and medium-sized enterprises (SMEs) and promote cooperation between SMEs of the Community and Russia.

2. The Parties shall encourage the exchange of information and know-how, inter alia, in areas such as:

   - legal, administrative, technical, tax, financial and other conditions necessary for setting up and expansion of SMEs and for cross-border cooperation;

   - the provision of the specialized services required by SMEs, like management and marketing training, accounting, quality control and creation and strengthening of agencies providing such services;

   - establishment of continuous and stable links between the Community and Russian operators in order to improve the flow of information to SMEs and promoting cross-border cooperation, inter alia, through access to and operation of Business Cooperation Network, Euro-Info-Correspondence Centres provided the necessary conditions are met for any of these networks.

     The Parties shall closely cooperate with a view to ensuring that the necessary conditions for access to the networks are met.

Article 77[3]

Communication, Informatics and Information Infrastructure

1. The Parties shall support the development of modern methods of information handling, including the media. They shall take appropriate steps to stimulate the effective mutual exchange of information. Priority shall be given to programmes aimed at providing the general public with basic information about the Community and professional, inter alia, business circles with specialised information.

2. The Parties shall make the necessary efforts to expand and strengthen cooperation in order to establish the appropriate information infrastructure. To this end they shall initiate notably the following actions:

- the exchange of information on policies for the establishment of information infrastructures including regulatory policies;
- exploration of the possibility for joint projects on research and development in information and communication technologies, and on the establishment of an information infrastructure adapted to the needs of a market economy, taking into account the conversion potential of Russian enterprises and Russian interests for informatization and allowing for inter-operability with Community information infrastructures;
- development of joint programmes concerning the training of specialists in information technologies and information services;
- promotion of European technical standards, systems of certification and regulatory approaches.

Article 78

Customs

1. The aim of cooperation shall be to achieve compatibility of the customs systems of the Parties.

2. Cooperation shall include the following in particular:

   - the exchange of information;
   - the improvement of working methods;
   - harmonisation and simplification of customs procedures regarding the goods traded between the Parties;

(3) Russia will translate 'informatics and information infrastructures' by 'informatsia i informatizatsia'.

- the interconnection between the transit systems of the Community and Russia;
- the support in the introduction and management of modern customs information systems, including computer based systems on the customs check points;
- mutual assistance and joint actions with respect to "dual-use" goods and goods subject to non-tarif limitations;
- the organization of seminars and training periods.

Technical assistance shall be provided where necessary.

3. Without prejudice to further cooperation foreseen in this agreement and in particular Articles 82 and 84, the mutual assistance between administrative authorities in customs matters of the Parties shall take place in accordance with the provisions of Protocol No. 2.

Article 79

Statistical cooperation

1. The cooperation shall aim at further development of efficient statistical systems, informational and programme-technological compatibility of statistical data, to provide, in time, reliable statistics needed to support and monitor the economic cooperation between the Parties, the process of economic reforms in Russia, and to contribute to the development of private enterprises in Russia.

2. The Parties shall cooperate in particular:

   - to enhance the development of an efficient statistical system in Russia, in particular to elaborate an appropriate institutional framework;

   - to improve the standards of training and the professional level of the statistical personnel;

   - to bring about harmonization with international, and in particular, Community methods, standards and classifications;

   - to provide private and public sector economic operators with the appropriate macro- and microeconomic data;

   - to guarantee the confidentiality of data;

   - exchange statistical information and to this end to build up and/or to make appropriate use of databases.

Article 80

Economics

1. The Parties shall facilitate the process of economic reform and the coordination of economic policies by cooperating to improve understanding of the fundamentals of their respective economies and the design and implementation of economic policy in market economies.

   The Parties shall:

   - exchange information on macroeconomic performance and prospects and on development strategies;

   - analyse economic issues of mutual interest, including the framing of economic policies and implementation instruments;

   - encourage extensive cooperation among economists and senior officials in order to expedite the transfer of information and know-how for the drafting of economic policies and provide for wide dissemination of the results of policy-relevant research.

Article 81

Money laundering

1. The Parties agree on the necessity of making every effort and cooperating in order to prevent the use of their financial systems for laundering of proceeds from criminal activities in general and drug offences in particular.

2. Cooperation in this area shall include administrative and technical assistance with the purpose of establishing suitable standards against money laundering equivalent to those adopted by the Community and international fora in this field, including the Financial Action Task Force (FATF).

Article 82

Drugs

The Parties shall cooperate in increasing the effectiveness and efficiency of policies and measures to counter the illicit production, supply and traffic of narcotic drugs and psychotropic substances, including the prevention of diversion of precursor chemicals, as well as in promoting drug demand prevention and reduction. The cooperation in this area shall be based on mutual consultation and close coordination between the Parties over the objectives and measures in the various drug-related fields and shall, inter alia, provide for exchange of training programmes and include, where available, technical assistance from the Community.

Article 83

Cooperation in the field of regulation of capital movements and payments in Russia

Without prejudice to Article 52, the Parties, recognizing the necessity of a stable functioning and development of the Russian domestic currency market shall cooperate in the field of creation of an effective system of regulation of capital movements and payments in Russia.

Bearing in mind the experience, competence and respective possibilities of the Member States and the Community, cooperation in this field supported by technical assistance from the Community shall cover inter alia:

- establishing links between competent authorities of the Community and its Member States and of Russia;
- exchanging information on a regular basis;
- helping in the development of appropriate regulations.

In order to permit an optimal use of the resources available the Parties shall ensure close coordination with the measures undertaken by other countries and international organizations.

TITLE VIII: COOPERATION ON PREVENTION OF ILLEGAL ACTIVITIES

Article 84

The Parties shall establish cooperation aimed at preventing illegal activities such as:

- illegal immigration and illegal presence of physical persons of their nationality on their respective territories, taking into account the principle and practice of readmission;
- illegal activities in the sphere of economics, including corruption;
- illegal transactions of various goods, including industrial waste;
- counterfeiting;
- the illicit traffic of narcotic drugs and psychotropic substances.

The cooperation in the abovementioned areas will be based on mutual consultations and close interactions and will provide technical and administrative assistance including:

- drafting of national legislation in the sphere of preventing illegal activities;
- creation of information centres;
- increasing the efficiency of institutions engaged in preventing illegal activities;
- training of personnel and development of research infrastructures;
- elaboration of mutually acceptable measures impeding illegal activities.

TITLE IX: CULTURAL COOPERATION

Article 85

1. The Parties undertake to promote cultural cooperation with the aim of reinforcing the existing links between their peoples and to encourage the mutual knowledge of their respective languages and cultures while respecting creative freedom and reciprocal access to cultural values.

2. Cooperation shall cover in particular the following areas:

   - exchange of information and experience in the field of conservation and protection of monuments and sites (architectural heritage);

   - cultural exchanges between institutions, artists and other persons working in the area of culture;

   - translation of literary works.

3. The Cooperation Council may make recommendations for the implementation of this article.

TITLE X: FINANCIAL COOPERATION

Article 86

In order to achieve the objectives of this Agreement, in particular Titles VI and VII thereof, and in accordance with Articles 87, 88 and 89 Russia shall benefit from temporary financial assistance from the Community by way of technical assistance in the form of grants to accelerate the economic transformation of Russia.

Article 87

This financial assistance shall be covered within the framework of the TACIS programme foreseen in the Community's relevant Council Regulation.

Article 88

The objectives and the areas of the Community's financial assistance shall be laid down in an indicative programme reflecting established priorities to be agreed between the two Parties taking into account Russia's needs, sectoral absorption capacities and progress with reform. The Parties shall inform the Cooperation Council thereof.

Article 89

In order to permit optimum use of the resources available, the Parties shall ensure that Community technical assistance contributions are made in close coordination with those from other sources such as the Member States, other countries, and international organisations such as the International Bank for Reconstruction and Development and the European Bank for Reconstruction and Development.

TITLE XI : INSTITUTIONAL, GENERAL AND FINAL PROVISIONS

Article 90

A Cooperation Council is hereby established which shall monitor the implementation of this Agreement. It shall meet at ministerial level once a year and when circumstances require. It shall examine any major issues arising within the framework of the Agreement and any other bilateral or international issues of mutual interest for the purpose of attaining the objectives of this Agreement. The Cooperation Council may also make appropriate recommendations, by agreement between the representatives within the Cooperation Council of the two Parties.

Article 91

1. The Cooperation Council shall consist of the members of the Council of the European Union and members of the Commission of the European Communities, on the one hand, and of members of the Government of the Russian Federation, on the other.

2. The Cooperation Council shall establish its rules of procedure.

3. The office of President of the Cooperation Council shall be held alternately by a representative of the Community and by a member of the Government of the Russian Federation

Article 92

1. The Cooperation Council shall be assisted in the performance of its duties by a Cooperation Committee composed of representatives of the members of the Council of the European Union and of representatives of the Commission of the European Communities on the one hand and of representatives of the Government of the Russian Federation on the other, normally at senior civil servant level. The office of President of the Cooperation Committee shall be held alternately by a representative of the Community and by a representative of the Government of the Russian Federation.

   In its rules of procedure the Cooperation Council shall determine the duties of the Cooperation Committee, which shall include the preparation of meetings of the Cooperation Council and such duties as are provided for in Articles 16, 17 and 53 and in annex 2, and how the Committee shall function.

2. The Cooperation Council may delegate any of its powers to the Cooperation Committee, which shall ensure continuity between meetings of the Cooperation Council.

Article 93

The Cooperation Council may decide to set up any other special committee or body that can assist it in carrying out its duties and shall determine the composition and duties of such committees or bodies and how they shall function.

Article 94

When examining any issue arising within the framework of this Agreement in relation to a provision referring to an article of the GATT, the Cooperation Council shall take into account to the greatest extent possible the interpretation that is generally given to the article of the GATT in question by the Contracting Parties to the GATT.

Article 95

A Parliamentary Cooperation Committee is hereby established. It shall meet at intervals which it shall itself determine.

Article 96

1. The Parliamentary Cooperation Committee shall consist of members of the European Parliament, on the one hand, and of members of the Federal Assembly of the Russian Federation, on the other.

2. The Parliamentary Cooperation Committee shall establish its rules of procedure.

3. The Parliamentary Cooperation Committee shall be presided in turn by a member of the European Parliament and a member of the Federal Assembly of the Russian Federation respectively, in accordance with the provisions to be laid down in its rules of procedure.

Article 97

The Parliamentary Cooperation Committee may request relevant information regarding the implementation of this Agreement from the Cooperation Council, which shall then supply the Committee with the requested information.

The Parliamentary Cooperation Committee shall be informed of the recommendations of the Cooperation Council.

The Parliamentary Cooperation Committee may make recommendations to the Cooperation Council.

Article 98

1. Within the scope of this Agreement, each Party undertakes to ensure that natural and legal persons of the other Party have access free of discrimination in relation to its own nationals to the competent courts and administrative organs of the Parties to defend their individual rights and their property rights, including those concerning intellectual, industrial and commercial property.

2. Within the limits of their respective powers, the Parties:

- shall encourage the adoption of arbitration for the settlement of disputes arising out of commercial and cooperation transactions concluded by economic *operators* of the Community and those of Russia;

- agree that where a dispute is submitted to arbitration, each party to the dispute may, except where the rules of the arbitration centre chosen by the parties provide otherwise, choose its own arbitrator, irrespective of his nationality, and that the presiding third arbitrator or the sole arbitrator may be a citizen of a third State;

- will recommend their economic operators to choose by mutual consent the law applicable to their contracts;

- shall encourage recourse to the arbitration rules elaborated by the United Nations Commission on International Trade Law (Uncitral) and to arbitration by any centre of a State signatory to the Convention on Recognition and Enforcement of Foreign Arbitral Awards done at New York on 10 June 1958.

Article 99

Nothing in this Agreement shall prevent a Party from taking any measures

1. which it considers necessary for the protection of its essential security interests:

   (a) to prevent the disclosure of information contrary to its essential security interests;

   (b) which relate to fissionable materials or the materials from which they are derived;

   (c) which relate to the production of, or trade in arms, munitions or war materials or to research, development or production indispensable for defence purposes, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes;

(d) in the event of serious internal disturbances affecting the maintenance of law and order, in time of war or serious international tension constituting threat of war or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security; or

2. which it considers necessary to respect its international obligations and commitments or autonomous measures taken in line with such generally accepted international obligations and commitments in the control of dual-use industrial goods and technology.

Article 100

1. In the fields covered by this Agreement and without prejudice to any special provisions contained therein:

   - the arrangements applied by Russia in respect of the Community shall not give rise to any discrimination between the Member States, their nationals or their companies or firms;

   - the arrangements applied by the Community in respect of Russia shall not give rise to any discrimination between Russian nationals, or its companies or firms.

2. The provisions of Paragraph 1 are without prejudice to the right of the Parties to apply the relevant provisions of their fiscal legislation to tax payers who are not in identical situations, in particular as regards their place of residence.

Article 101

1. Each of the two Parties may refer to the Cooperation Council any dispute relating to the application or interpretation of this Agreement.

2. The Cooperation Council may settle the dispute by means of a recommendation.

3. In the event of it not being possible to settle the dispute in accordance with paragraph 2 of this Article, either Party may notify the other of the appointment of a conciliator; the other Party must then appoint a second conciliator within two months. For the application of this procedure, the Community and the Member States shall be deemed to be one Party to the dispute.

   The Cooperation Council shall appoint a third conciliator.

   The conciliators' recommendations shall be taken by majority vote. Such recommendations shall not be binding upon the Parties.

4. The Cooperation Council may establish rules of procedure for dispute settlement.

Article 102

The Parties agree to consult promptly through appropriate channels at the request of either Party to discuss any matter concerning the interpretation or implementation of this Agreement and other relevant aspects of the relations between the Parties.

The provisions of this Article *shall in no way affect and* are without prejudice to Articles 17, 18, 101 and 107.

Article 103

Treatment granted to Russia hereunder shall in no case be more favourable than that granted by the Member States to each other.

Article 104

For the purposes of this Agreement, the term "Parties" shall mean Russia, of the one part, and the Community, or the Member States, or the Community and the Member States, in accordance with their respective powers, of the other part.

Article 105

Insofar as matters covered by this Agreement are covered by the Energy Charter Treaty and Protocols *thereto*, such Treaty and Protocols shall upon entry into force apply to such matters but only to the extent that such application is provided for therein.

Article 106

This Agreement is concluded for an initial period of 10 years. The Agreement shall be automatically renewed year by year provided that neither Party gives the other Party written notice of denunciation of the Agreement at least six months before it expires.

Article 107

1. The Parties shall take any general or specific measures required to fulfil their obligations under the Agreement. They shall see to it that the objectives set out in the Agreement are attained.

2. If either Party considers that the other Party has failed to fulfil an obligation under the Agreement, it may take appropriate measures. Before so doing, except in cases of special urgency, it shall supply the Cooperation Council with all relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties.

   In the selection of these measures, priority shall be given to those which least disturb the functioning of the Agreement. These measures shall be notified immediately to the Cooperation Council if the other Party so requests.

Article 108

Annexes 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 together with Protocols 1 and 2 shall form an integral part of this Agreement.

Article 109

This Agreement shall not, until equivalent(4) rights for individuals and economic operators have been achieved hereunder, affect rights assured to them through agreements binding one or more Member States on the one hand and Russia on the other except in areas falling within Community competence and without prejudice to the obligations of Member States resulting from this Agreement in areas falling within their competence.

Article 110

This Agreement shall apply, on the one hand, to the territories in which the treaties establishing the European Community, the European Atomic Energy Community and the European Coal and Steel Community are applied and under the conditions laid down in those Treaties and, on the other hand, to the territory of Russia.

Article 111

This Agreement, is drawn up in duplicate in the Danish, Dutch, English, French, German, Italian, Spanish, Greek, Portuguese and Russian languages, each of these texts being equally authentic.

Article 112

This Agreement shall be approved by the Parties in accordance with their own procedures.

This Agreement shall enter into force on the first day of the second month following the date on which the Parties notify each other that the procedures referred to in the first paragraph have been completed.

Upon its entry into force, and as far as relations between the Community and Russia are concerned, this Agreement shall replace, without prejudice to Article 22, paragraphs 1, 3 and 5, the Agreement between the European Economic Community, the European Atomic Energy Community and the Union of Soviet Socialist Republics on trade and economic and commercial cooperation signed in Brussels on 18 December 1989.

(4) "Equivalent" will be translated into Russian as "Sootvetstvujuschie".

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Annex 1

Indicative list of advantages granted by Russia to the countries of the former USSR in areas covered by the Present Agreement

(As of January 1994)

Advantages are granted bilaterally by respective agreements or by established practice. They provide for, inter alia:

1. **Import/Export Taxation**

   No import duties are applied.
   No export duties are applied with respect to goods delivered under annual bilateral interstate trade and cooperation arrangements within the nomenclature and volumes, stipulated therein, considered as "exportation for federal state needs" as defined by corresponding Russian law.
   No VAT is applied on import.
   No excise are applied on import.

2. Allocation of quotas and licensing procedures

   Export quotas for deliveries of Russian products under annual bilateral interstate trade and cooperation agreements are opened in the same way as for "deliveries for state needs".

3. Special conditions for all kind of activities in banking and the financial sector (including establishment, operation) movement of capital and current payments, access to securities, etc.

4. Price system regarding Russian export of some kinds of raw materials and semifinished products (coal, crude oil, natural gas, refined oil products)

   Prices are determined on the basis of correspondent average world price converted in roubles or respective national currency at a rate quoted by the Central Bank of Russia as of 15th date of a month previous to the month of exportation.

5. Conditions of transportation and transit

   As regards CIS countries parties to the multilateral agreement "on the principles and conditions of relations in the field of transport" and/or on the basis of bilateral arrangements on transportation and transit, no taxes or fees are applied on a reciprocal basis for the transportation and customs clearing of goods (including goods in transit) and transit of vehicles.

6. Communications services, including postal, courier, telecommunications, audiovisual and other services.

7. Access to information systems and data bases.

Annex 2

Derogations from Article 15 (Quantitative Restrictions)

1. Exceptional measures which derogate from the provisions of Article 15 may be taken by Russia in the form of quantitative restrictions on a non-discriminatory basis as provided for in article XIII of the GATT. Such measures can only be taken after the end of the first calendar year following signature of the Agreement.

2. These measures may only be taken in the circumstances mentioned in Annex 9.

3. The total value of imports of goods which are subject to these measures may not exceed the following proportions of total imports of goods originating in the Community:

   - 10% during the second and third calendar years following signature of the Agreement;

   - 5% during the fourth and fifth calendar years following signature of the Agreement;

   - 3% afterwards, until Russia's accession to the GATT/WTO.

   The abovementioned proportions will be determined by reference to the value of imports by Russia of goods originating in the Community during the last year prior to the introduction of quantitative restrictions for which statistics are available.

   These provisions shall not be circumvented by increased tariff protection on the imported goods concerned.

4. These measures shall not be applied after Russia's accession to the GATT/WTO unless otherwise provided for in Russia's accession protocol to the GATT/WTO.

5. Russia shall inform the Cooperation Committee of any measures it intends to take under the terms of the present Annex, and consultations shall be held in the Cooperation Committee if so requested by the Community on such measures before they are taken, and on the sectors to which they apply .

Annex 3

Community reservations in accordance with article 28 paragraph 2

Mining

In some Member States, a concession may be required for mining and mineral rights for non-EC controlled companies.

Fishing

Access to and use of the biological resources and fishing grounds situated in the maritime waters coming under the sovereignty or within the jurisdiction of Member States of the Community is restricted to fishing vessels flying the flag of a Community Member State and registered in Community territory unless otherwise provided for.

Real estate purchase

In some Member States, the purchase of real estate is subject to limitations.

Audiovisual services including radio

National treatment concerning production and distribution, including broadcasting and other forms of transmission to the public, may be reserved to audiovisual works meeting certain origin criteria.

Telecommunications services including mobile and satellite services

Reserved services.
In some Member States market access concerning complementary services and infrastructures is restricted.

Professional services

Services reserved to natural persons nationals of Members States. Under certain conditions those persons may create companies.

Agriculture

In some Member States national treatment is not applicable to non-EC controlled companies which wish to undertake an agricultural enterprise. The acquisition of vineyards by non-EC controlled companies is subject to notification, or, as necessary, authorisation.

News agency services

In some Member States limitations of foreign participation in publishing companies and broadcasting companies.

Annex 4

Russian reservations in accordance with Article 28, Paragraph 3

Use of subsoil and natural resources including mining

1. A concession may be required for mining some ores and metals for non-Russian controlled companies.

2. Some special auctions for the use of subsoil and natural resources for small enterprises or defence enterprises undergoing military conversion may be closed to non-Russian controlled companies.

Fishing

Authorisation from the respective governmental body is necessary for fishing.

Real estate (immovable property) purchase and brokerage

(a) Non-Russian controlled companies are not allowed to acquire plots of land. Those companies, however, can lease plots of land for a period of no more than 49 years.

(b) As an exception to paragraph (a), non-Russian controlled companies can acquire plots of land in the cases when such companies are recognised as buyers in accordance with the Law of the Russian Federation on the privatisation of state and municipal enterprises in the Russian Federation and other respective legislation and regulations, including the requirements of programs of privatisation:

- within the framework of the privatisation of state and municipal enterprises in the form of commercial investment tender and auction;
- within the framework of the expansion and additional construction of enterprises in the form of commercial investment tender and auction;

Telecommunications

Telecommunication services including mobile and satellite services, construction, installation, operation and maintenance of communication devices is restricted.

Mass media services

Some limitations of foreign participation in mass media companies.

Professional activities

Some activities closed, limited or subject to special requirements for natural persons who are non-Russian nationals.

Lease of Federal property

The lease of federal property whose value exceeds 100 million roubles to non-Russian controlled companies is effected with the permission of the state authority empowered to manage such property. This maximum is to be raised and will be expressed in hard currency.

Annex 5

Cross-border supply of services
List of services for which the Parties shall grant MFN treatment

(a) Sectors to be covered, according to the provisional Central Product Classification (CPC) of the United Nations Organisation:

Consultancy services relating to accounting review services: part of CPC 86212 other than "auditing services"
Consultancy services relating to bookkeeping services CPC 86220
Engineering services CPC 8672
Integrated engineering services CPC 8673
Advisory and Pre-design architectural services CPC 86711
Architectural design services CPC 86712
Urban planning and landscape architectural services CPC 8674
Computer and related services:
Consultancy services related to the installation of computer hardware CPC 841
Software implementation services CPC 842
Data base services CPC 844
Advertising CPC 871
Market research and opinion polling CPC 864
Management consulting services CPC 866
Technical testing and Analysis services CPC 8676
Advisory and consulting services relating to agriculture, hunting and forestry
Advisory and consulting services relating to Fishing
Advisory and consulting services relating to mining
Printing and publishing CPC 88442
Convention services
Translation services CPC 87905
Interior design services CPC 87907
Telecommunications:
Value added services including (but not limited to) Electronic Mail, Voice Mail, On-line information and Data base retrieval, Data processing, EDI, Code and Protocol conversion
Packet and Circuit switched data services
Construction and related engineering services: site investigation work CPC 5111
Franchising CPC 8929
Adult education services by correspondence part of CPC 924
News and press agency services CPC 962
Rental/leasing services without operators related to other transport equipment (CPC 83101 private cars, 83102 goods transport vehicles, 83105) and relating to other machinery and Equipment (CPC 83106, 83107, 83108, 33109)
Commission agents services and Wholesale trade services related to import-export trade (part of CPC 621 and 622)
Research and development in software
Reinsurance and retrocession and the services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services

Insurance of risks relating to:

(i) maritime shipping and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following : persons being transported, the goods being exported from or imported to, the same vehicle transporting the goods and any liability arising there from;

(ii) goods in international transit; and

(iii) accident and health insurance;and personal motor liability insurance in the case of the cross-border movement.

(b) Data processing services CPC 843
Provision and transfer of financial information and financial data processing (see paras. B.11 and B.12 of Annex 6):

For the services listed under (b) MFN subject to Article 38 will be applied, without paragraph A of Annex 8.

Annex 6

Definitions in relation to Financial Services

A financial service is any service of a financial nature offered by a financial service supplier of one of the Parties. Financial services include the following activities:

A. All insurance and insurance-related services.
- **1. Direct insurance (including co-insurance).**
- **(i) life**
- **(ii) non-life**
- **2. Reinsurance and retrocession.**
- **3. Insurance intermediation, such as brokerage and agency.**
- **4. Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.**

B. Banking and other financial services (excluding insurance).
- **1. Acceptance of deposits and other repayable funds from the public.**
- **2. Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction.**
- **3. Financial leasing.**
- **4. All payment and money transmission services, including credit charge and debit cards, travellers cheques and bankers drafts.**
- **5. Guarantees and commitments.**
- **6. Trading for own account or for the account of customers, whether on an exchange, in an over the counter market or otherwise, the following:**
  - **(a) money market instruments (including cheques, bills, certificates of deposits, etc.)**
  - **(b) foreign exchange**
  - **(c) derivative products including, but not limited to, futures and options**
  - **(d) exchange rates and interest rate instruments, including products such as swaps, forward rate agreements, etc.**
  - **(e) transferable securities**
  - **(f) other negotiable instruments and financial assets, including bullion.**

7. Participation in issues of all kinds of securities, including under-writing and placement as agent (whether publicly or privately) and provision of services related to such issues.

8. Money broking

9. Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial depository and trust services.

10. Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments.

11. Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services.

12. Advisory intermediation and other auxiliary financial services on all the activities listed in points 1 to 11 above, including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

The following activities are excluded from the definition of financial services :

(a) Activities carried out by central banks or by any other public institution in pursuit of monetary and exchange rate policies.

(b) Activities conducted by central banks, government agencies or departments, or public institutions, for the account or with the guarantee of the government, except when those activities may be carried out by financial service suppliers in competition with such public entities.

(c) Activities forming part of a statutory system of social security or public retirement plans, except when those activities may be carried out by financial service suppliers in competition with public entities or private institutions.

Annex 7

Financial Services

A. In respect of banking services referred to in Annex 6, part B, the most favoured nation treatment granted under Article 28, paragraph 1, with regard to establishment by means of the setting up of a subsidiary only (excluding therefore establishment by means of the setting up of a branch), and the national treatment granted under Article 28, paragraph 3, by Russia means treatment no less favorable than the treatment granted by Russia to its own companies with the following exceptions :

1. Russia reserves the right

   a. to continue to apply to Russian subsidiaries and branches of Community companies the ceiling limiting the overall share of foreign capital in the Russian banking system which is in operation on the date of signature of the Agreement;

   b. to apply to Russian subsidiaries of Community companies a minimum capital requirement higher than that applied to its own companies provided that this minimum capital requirement is not raised as compared with the one in force on the date of signature of the Agreement before national treatment is applied in respect of the minimum capital requirement;

   c. to restrict the number of branches of Russian subsidiaries of Community companies;

   d. to set a minimum level not higher than 55.000 ECU for balances on accounts of each physical person with Russian subsidiaries of Community companies;

   e. to prohibit Russian subsidiaries of Community companies from carrying out transactions with shares and instruments convertible into shares of Russian joint stock companies;

   f. to prohibit Russian subsidiaries of Community companies from carrying out transactions with Russian residents;

2. The exceptions in paragraph 1 may only apply under the following conditions

   (i) provided that they are applied to subsidiaries of companies of every country, and

   (ii) for the exceptions mentioned in paragraph 1, subparagraphs c, d and e,

      (a) until the expiry of five years from signature of the Agreement at the latest for the exceptions mentioned in subparagraphs c and d and three years for the exception mentioned in subparagraph e, and

(b) where the proportion of the share capital of the Russian subsidiary of the Community company held by Russian nationals or companies does not exceed fifty percent (50%), and

(c) to Russian subsidiaries of Community companies established after the entry into force of these exceptions;

(iii) for the exception mentioned in paragraph 1, sub paragraph f, until 1st January 1996 and only to Russian subsidiaries of Community companies established after 15th November 1993 or which have not commenced their operations with Russian residents before 15th November 1993.

3. a. After the expiry of five years from the date of signature of the Agreement, Russia will consider the possibility of:

(i) increasing the ceiling limiting the overall share of foreign capital in the Russian banking system which is in operation on the date of the signature of this Agreement, mentioned in subparagraph a of Paragraph 1, taking into consideration all the relevant monetary, fiscal, financial and balance of payments considerations and the state of the banking system of Russia;

(ii) reducing the minimum capital requirement, mentioned in subparagraph b of Paragraph 1, taking into consideration all the relevant monetary, fiscal, financial and balance of payments considerations and the state of the banking system of Russia.

b. After the expiry of three years from the signature of this Agreement, Russia will consider the softening of restrictions mentioned in subparagraphs c and d of Paragraph 1, taking into consideration all the relevant monetary, fiscal, financial and balance of payments considerations and the state of the banking system of Russia.

B. In respect of insurance services referred to in Annex 6, part A, paragraphs 1 and 2 the most favoured nation treatment granted under Article 28, paragraph 1 with regard to establishment by means of the setting up of a subsidiary only authorised for the insurance operations is set out in the legislation and regulations applicable in Russia on the day of establishment taking into account the following conditions:

1. Upon the expiry of five years from signature of the Agreement at the latest, Russia shall abolish the maximum foreign shareholding limit of 49 percent in company capital.

2. During the transitional period of 5 years the abolition of the maximum foreign shareholding limit does not prevent Russia from introducing measures for granting licences to EC companies in some classes of insurance. These measures could be taken only in the field of compulsory insurance schemes in the social security, or for public procurement, or for the reasons described in Article 29, paragraph 2, and shall not nullify or substantially impair the effects of the abolition of the maximum foreign shareholding limit of 49%.

Annex 8

Provisions in relation to articles 34 and 38

Part A

The consultations shall begin within thirty days of the request therefor by the first Party. They shall be held with a view to reaching agreement either on:

- **withdrawal by the other Party of the measures which have resulted in the significantly more restrictive situation; or**
- **adjustments of the obligations of both Parties; or**
- **adjustments to be made by the first Party to compensate for the more restrictive situation created by the other Party.**

If agreement is not reached within sixty days of the request for consultations made by the first Party, such first Party may make appropriate compensatory adjustments to its obligations. Such adjustments shall be made to the extent and for such time as is necessary to take account of the significantly more restrictive situation created by the other Party. Priority must be given to those measures which least disturb the functioning of the Agreement. The rights which economic operators have acquired under the Agreement at the time such adjustments are made shall nor be affected by the said adjustments.

Part B

1. Acting in the spirit of partnership and cooperation the Government of Russia shall inform the Community, during a transitional period of three years following the signature of the Agreement, of its intentions to submit new legislation or adopt new regulations which may render the conditions for the establishment or operation of Russian subsidiaries and branches of Community companies more restrictive than the situation existing on the day preceding the date of signature of the Agreement. The Community may request Russia to communicate the drafts of such legislation or regulations and to enter into consultations about those drafts.

2. Where new legislation or regulations introduced in Russia within the transitional period mentioned in paragraph 1 would result in rendering the conditions for operation of Russian subsidiaries and branches of Community companies more restrictive than the situation existing on the day of signature of the Agreement, such respective legislation or regulations shall not apply to those subsidiaries and branches already established in Russia at the time of entry into force of the relevant act, until the expiry of a period of three years from such entry into force.

Annex 9

Transitional period for provisions on competition and for the introduction of quantitative restrictions

The circumstances mentioned in Article 53, paragraph 2.3 and in Annex 2, paragraph 2 are understood in respect of sectors of the Russian economy which:

- **are undergoing restructuring, or**
- **are facing serious difficulties, particularly where these entail serious social problems in Russia, or**
- **face the elimination or a drastic reduction of the total market share held by Russian companies or nationals in a given sector or industry in Russia, or**
- **are newly emerging industries in Russia.**

Annex 10

Protection of Intellectual, Industrial and Commercial Property (Article 54)

1. Russia shall continue to improve the protection of intellectual, industrial and commercial property rights in order to provide, by the end of the fifth year after the entry into force of the Agreement, for a level of protection similar to that existing in the Community, including effective means of enforcing such rights.

2. By the end of the fifth year following entry into force of the Agreement, Russia shall accede to the multilateral conventions on intellectual, industrial and commercial property rights to which Member States are parties or which are de facto applied by Member States, according to the relevant provisions contained in these conventions:

   - Berne Convention for the Protection of Literary and Artistic Works (Paris Act, 1971);
   - International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome, 1961);
   - International Convention for the Protection of New Varieties of Plants (UPOV) (Geneva Act, 1991).

3. The Cooperation Council may recommend that paragraph 2 of this Annex shall apply to other multilateral conventions.

4. From the entry into force of this Agreement Russia shall grant to Community companies and nationals, in respect of the recognition and protection of intellectual, industrial and commercial property, treatment no less favourable than that granted by it to any third country under bilateral agreements.

5. The provisions of paragraph 4 shall not apply to advantages granted by Russia to any third country on an effective reciprocal basis and to advantages granted by Russia to another country of the former USSR.

PROTOCOL 1

ON THE ESTABLISHMENT OF A COAL AND STEEL CONTACT GROUP

1. A Contact Group is established between the Parties. The Group is composed of representatives of the Community and of Russia.

2. The Contact Group exchanges information on the situation of the coal and steel industries in both territories and on trade between them, particularly with the purpose of identifying such problems as might arise.

3. The Contact Group also examines the situation of the coal and steel industries at world level, including developments in international trade.

4. The Contact Group exchanges all useful information on the structure of the industries concerned, the development of their production capacities, the science and research progress in the relevant fields, and the evolution of employment. The Group also examines pollution and environmental problems.

5. The Contact Group also examines the progress made in the framework of technical assistance between the Parties, including assistance to financial, commercial and technical management.

6. The Contact Group exchanges all relevant information as to attitudes taken, or to be taken, in the appropriate international organisations or fora.

7. As and when both parties agree that the presence and/or participation of representatives of the industries is appropriate, the Contact Group is enlarged to include them.

8. The Contact Group meets twice a year, alternately on the territories of each party.

9. The chairmanship of the Contact Group is held alternately by a representative of the Government of the Russian Federation and a representative of the Commission of the European Communities.

PROTOCOL 2

ON MUTUAL ADMINISTRATIVE ASSISTANCE FOR THE CORRECT APPLICATION OF CUSTOMS LEGISLATION

ARTICLE 1

Definitions

For the purposes of this Protocol:

a) "customs legislation" shall mean provisions applicable in the territories of the Parties governing the import, export, transit of goods and their placing under any customs procedure, including measures of prohibition, restriction and control adopted by the Parties.

b) "customs duties" shall mean all duties, taxes, fees or any other charges which are levied and collected in the territories of the Parties, in application of customs legislation, but not including fees and charges which are limited in amount to the approximate costs of services rendered;

c) "applicant authority", shall mean a competent administrative authority which has been appointed by a Party for this purpose and which makes a request for assistance in customs matters;

d) "requested authority", shall mean a competent administrative authority which has been appointed by a Party for this purpose and which receives a request for assistance in customs matters;

e) "contravention", shall mean any violation of the customs legislation as well as any attempted violation of such legislation.

ARTICLE 2

Scope

1. The Parties shall assist each other, in the manner and under the conditions laid down in this Protocol, in ensuring that customs legislation is correctly applied, in particular by the prevention, detection, and investigation of contraventions of this legislation.

2. Assistance, in customs matters, as provided for in this Protocol, applies to any administrative authority of the Parties which is competent for the application of this Protocol. It shall not prejudice the rules governing mutual assistance in criminal matters, nor shall it cover information, including documents obtained under powers exercised at the request of the judicial authority, unless those authorities so agree.

ARTICLE 3

Assistance on request

1. At the request of the applicant authority, the requested authority shall furnish it with all relevant information to enable it to ensure that customs legislation is correctly applied, including information regarding operations detected or planned which are, appear or would be in contravention of such legislation.

2. At the request of the applicant authority, the requested authority shall inform it whether goods exported from the territory of one of the Parties have been properly imported into the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods.

3. At the request of the applicant authority, the requested authority shall take the necessary steps to ensure that a surveillance is kept on :

   (a) natural or legal persons of whom there are reasonable grounds for believing that they are contravening or have contravened customs legislation;

   (b) places where stocks of goods have been assembled in such a way that there are reasonable grounds for supposing that they are intended as supplies for operations contrary to the customs legislation of the other Party;

   (c) movements of goods notified as possibly giving rise to contraventions of customs legislation;

   (d) means of transport for which there are reasonable grounds for believing that they have been, are or may be used in the contravening of customs legislation.

ARTICLE 4

Spontaneous assistance

The Parties shall within their competences provide each other with assistance without prior request where they consider that to be necessary for the correct application of customs legislation, particularly when they obtain information pertaining to :

- operations detected or planned, which are, appear or would be in contravention of such legislation ;
- new means or methods employed in realizing such operations;
- goods known to be subject to substantial contravention of customs legislation on import, export, transit or any other customs procedure.

ARTICLE 5

Form and substance of requests for assistance

1. Requests pursuant to the present Protocol shall be made in writing. Documents necessary for the execution of such requests shall accompany the request. When required because of the urgency of the situation, oral requests may be accepted, but must be confirmed in writing immediately.

2. Requests pursuant to paragraph 1 of this Article shall include the following information:

   (a) the applicant authority making the request;

   (b) the measure requested;

   (c) the object of and the reason for the request;

   (d) the laws, rules and other legal elements involved;

   (e) indications as exact and comprehensive as possible on the natural or legal persons being the target of the investigations;

   (f) a summary of the relevant facts.

3. Requests shall be submitted in an official language of the requested authority or in a language acceptable to such authority.

4. If a request does not meet the formal requirements, its correction or completion may be demanded; the ordering of precautionary measures may, however, take place.

ARTICLE 6

Execution of requests

1. Requests for assistance will be executed in accordance with the laws, rules and other legal instruments of the requested Party.

2. In order to comply with a request for assistance, the requested authority shall proceed, within its competence and available resources, as though it were acting on its own account or at the request of other authorities of that same Party, by supplying information already possessed, by carrying out appropriate enquiries or by arranging for them to be carried out.

3. Duly authorized officials of a Party may, with the agreement of the other Party involved and within the conditions laid down by the latter, obtain from the offices of the requested authority or other authority for which the requested authority is responsible, information relating to the contravention of customs legislation which the applicant authority needs for the purposes of this Protocol.

4. Officials of a Party may, in particular cases, with the agreement of the other Party involved and within the conditions laid down by the latter, be present at enquiries carried out in the latter's territory.

5. When, in the circumstances provided for under this Protocol, officials of one Party are present at enquiries carried out in the territory of the other Party, they must, at all times, be able to furnish proof of their official capacity. They must not wear uniform nor carry arms.

ARTICLE 7

Form in which information is to be communicated

1. Under the conditions and within the limits laid down in this Protocol, the Parties shall communicate each other information in the form of documents, certified copies of documents, reports and the like.

2. Original files and documents may be transmitted on request only in cases where certified copies would be insufficient. Those files and documents shall be returned at the earliest opportunity.

3. The documents provided for in paragraph 1 may be replaced by computerized information produced in any form for the same purpose. All relevant information for the utilization of the material shall be supplied on request.

ARTICLE 8

Exceptions to the obligation to provide assistance

1. The Parties may refuse to give assistance as provided for in this Protocol, provide it partially or provide it subject to certain conditions or requirements, where to do so would:

   (a) be likely to prejudice sovereignty, public policy, security or other essential interests; or

   (b) violate an industrial, commercial or professional secret.

2. Where the applicant authority asks for assistance which it would itself be unable to provide if asked so by another Party, it shall draw attention to that fact in its request. It shall then be left to the requested authority to decide how to respond to such a request.

3. If assistance is withheld or denied, the decision and the reasons therefore must be notified in written form to the applicant authority without delay.

ARTICLE 9

Obligation to observe confidentiality

1. Any information communicated in whatsoever form pursuant to this Protocol shall be of a confidential nature. It shall be covered by the obligation of official secrecy and shall enjoy the protection extended to like information under the relevant legislation applicable in the Party which received it and the corresponding provisions applying to the Community institutions.

2. Nominative data shall not be transmitted whenever there are reasonable grounds to believe that the transfer or the use made of the data transmitted would be contrary to the basic legal principles of one of the Parties, and, in particular, if the person concerned would suffer a prejudice in fundamental human rights. Upon request, the receiving Party shall inform the furnishing Party of the use made of the information supplied and of the results achieved.

3. Nominative data may only be transmitted to customs authorities and, in the case of need for prosecution purposes, to public prosecution and judicial authorities. Other persons or authorities may obtain such information only upon previous authorisation by the furnishing authority.

4. The furnishing Party shall verify the accuracy of the information to be transferred. Whenever it appears that the information supplied was inaccurate or to be deleted, the receiving Party shall be notified without delay. The latter shall be obliged to carry out the correction or deletion.

5. Without prejudice to cases of prevailing public interest, the person concerned may obtain, upon request, information on the data stores and the purpose of this storage.

ARTICLE 10

Use of information

1. Information obtained shall be used solely for the purposes of this Protocol and may be used within each Party for other purposes only with the prior written consent of the administrative authority which furnished the information and shall be subject to any restrictions laid down by that authority.

2. Paragraph 1 shall not impede the use of information in any judicial or administrative proceedings subsequently instituted for failure to comply with customs legislation.

3. The Parties may, in their records of evidence, reports and testimonies and in proceedings and charges brought before the courts, use as evidence information obtained and documents consulted in accordance with the provisions of this Protocol.

ARTICLE 11

Experts and witnesses

An official of a requested authority may be authorized to appear, within the limitations of the authorization granted, as expert or witness in judicial or administrative proceedings regarding the matters covered by this Protocol in the jurisdiction of another Party, and produce such objects, documents or authenticated copies thereof, as may be needed for the proceedings. The request for an appearance must indicate specifically on what matter and by virtue of what title or qualification the official will be questioned.

ARTICLE 12

Assistance expenses

The Parties shall waive all claims on each other for the reimbursement of expenses incurred pursuant to this Protocol, except, as appropriate, for expenses to experts and witnesses and to interpreters and translators who are not dependent upon public services.

ARTICLE 13

Implementation

1. The management of this Protocol shall be entrusted to the central customs authorities of Russia on the one hand and the competent services of the Commission of the European Communities and, where appropriate, the customs authorities of the EC Member States on the other. They shall decide on all practical measures and arrangements necessary for its application, taking into consideration rules in the field of data protection. They may recommend to the Cooperation Council amendments which they consider should be made to this Protocol.

2. The Parties shall consult each other and subsequently keep each other informed of the detailed rules of implementation which are adopted in accordance with the provisions of this Protocol.

ARTICLE 14

Complementarity

1. This Protocol shall complement and not impede application of any agreements on mutual assistance which have been concluded between individual or several Member States of the European Community and Russia. Nor shall it preclude more extensive mutual assistance granted under such agreements concluded or to be concluded.

2. Without prejudice to Article 10, these agreements do not prejudice Community provisions governing the communication between the competent services of the Commission and the customs authorities of the Member States of any information obtained in customs matters which could be of Community interest.

List of declarations and letters

Joint declaration in relation to Title III and article 94
Joint declaration in relation to article 10
Joint declaration in relation to article 12
Joint declaration in relation to article 17
Joint declaration in relation to article 18
Exchange of letters in relation to article 18
Exchange of letters in relation to article 22
Joint declaration in relation to article 22, paragraph 1 second indent
Joint declaration in relation to article 24
Joint declaration in relation to articles 26, 32 and 37
Joint declaration in relation to article 28
Joint declaration in relation to article 29(3)
Exchange of letters in relation to article 29
Joint declaration in relation to article 30
Joint declaration in relation to article 30 a) and g)
Joint declaration in relation to the notion of "control" in article 30(b) and article 45
Joint declaration in relation to article 30(h), 3rd subparagraph
Joint declaration in relation to article 31
Declaration by Russia in relation to article 34, paragraph 1
Joint declaration in relation to articles 34 and 38
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Joint declaration in relation to article 39(2c), 2nd subparagraph on opening ports
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Joint declaration in relation to article 107
Joint declaration in relation to article 107 (2)
Joint declaration in relation to articles 2 and 107
Joint declaration in relation to article 112
Joint declaration in relation to article 6 of Protocol 2
Exchange of letters on the consequences of enlargement (outside the agreement)
Exchange of letters on Uruguay Round (outside the agreement)

Joint declaration in relation to Title III and article 94

For the purpose of Title III and Article 94, the GATT is understood to be the General Agreement on Tariffs and Trade signed in Geneva in 1947 as amended, as applied at the date of signature of the present Agreement, if the Parties do not agree otherwise within the framework of the Cooperation Council established under Article 90.

Joint declaration in relation to article 10

The Parties agree, that the provisions of paragraph 1 of Article 10 shall not apply to conditions of import of products to the territory of Russia under financial loans and credits granted for development and humanitarian purposes, technical and humanitarian assistance and other similar arrangements, concluded between Russia and third States or international organisations in so far as such States or international organisations require special treatment for such imports.

Joint declaration in relation to article 12

Article 12, within Title III on trade in Goods, deals with the question of transit. It is the understanding of the Parties that Article 12 deals exclusively with the freedom of transit of goods. This is according to normal GATT practice. The issue of transit may be taken up in the future negotiations on Transport Agreements as indicated in Article 43.

Joint declaration in relation to article 17

The Community and Russia declare that the text of the safeguard clause (Article 17) does not grant GATT safeguard treatment.

Joint declaration in relation to article 18

The Parties agree that, without prejudice to *their* legislation and practice, when establishing normal value due account shall be taken overall, in each case on its merits, when natural comparative advantages can be shown by the manufacturers involved to be held with regard to factors such as access to raw materials, production process, proximity of production to customers and special characteristics of the product.

Exchange of letters in relation to article 18

It is understood that the provisions of this article and respective declaration are neither intended *to*, nor shall, slow down, hinder or impede the procedures provided for in the respective legislations of the Parties regarding antidumping and subsidies investigations.

Exchange of letters in relation to article 22 (nuclear trade)

Sir,

The purpose of this letter is to confirm that with regard to trade in nuclear materials as covered by Article 22 of the Partnership and Cooperation Agreement signed today, we have reached the following understanding:

Russia intends to act as a stable, reliable and long-term supplier of nuclear materials to the Community and the Community recognises that intention. The Russian Government takes note that the Community considers Russia, in particular for the purposes of its supply policy in the nuclear field, as a source of supply which is separate and distinct from other suppliers.

In order to avoid any difficulties in trade, consultations shall be held regularly or on request on developments in the trade of nuclear materials between Russia and the Community. These consultations could include a continuous and regular dialogue on market developments and forecasts.

The consultations shall be held within the framework of Article 92.

As provided in Article 13 of the Partnership and Cooperation Agreement the regulations referred to in article 6 of the 1989 Agreement will be implemented in a uniform, impartial and equitable manner.

I refer to our commitment to facilitate by all practicable means the process of nuclear disarmament underway. We have agreed to take all necessary steps to conduct consultations with all countries concerned, if it appears that the implementation of respective bi- and multilateral agreements causes or threatens to cause substantial injury to the facilities of the Parties.

I propose that this letter and your reply will establish a formal agreement between us.

Joint declaration in relation to article 22, paragraph 1 second indent

With respect to the Community the legislation and regulations, referred to in Art. 6 of the 1989 Agreement, include, inter alia, the Treaty establishing the European Atomic Energy Community and implementing regulations thereof, in particular the provisions of those texts, which specify the rights, powers and responsibilities of the EURATOM Supply Agency and of the Commission of the European Communities.

Joint declaration in relation to article 24

It is understood that the notion "members of their family" is defined in accordance with the national legislation of the host country concerned.

Joint declaration in relation to articles 26, 32 and 37

The Parties to the Agreement shall ensure that the issuing of visas and residents permits in conformity with the laws and regulations of Russia and the Member States respectively are conducted in a manner consistent with the principles of the concluding document of the CSCE Bonn Conference, in particular with a view to facilitate the prompt entry, stay and movement of businessmen in Russia and in the Member States. Such efforts shall apply in particular to key personnel referred to in Article 32 and to the sellers of cross-border services referred to in Article 37, and ensure that the administrative procedures do not nullify or impair the benefits accruing to any Party under these Articles of the Agreement.

The Parties agree that an important element in this context is the timely conclusion of re-admission agreements between the Member States and Russia.

The Cooperation Council shall regularly review the evolution of the situation in these areas.

Joint Declaration in relation to article 28

Without prejudice to the provisions of Articles 50 and 51, the Parties agree that the words "in conformity with ... legislation and regulations" mentioned in paragraphs 1 and 4 of Article 28 mean that each Party may regulate the establishment of companies by means of setting up subsidiaries and branches as defined in Article 30 and the operation of branches provided that this legislation and regulations do not create reservations to the treatment no less favourable than that accorded to companies or branches of any third country respectively.

Without prejudice to the reservations listed in Annexes 3 and 4 and to the provisions of Articles 50 and 51, the Parties agree that the words "in conformity with ... legislation and regulations" mentioned in paragraphs 2 and 3 of Article 28 mean that each Party may regulate the operation of companies on its territory, provided that this legislation and regulations do not create for the operations of companies of the other Party any new reservations to the treatment no less favourable than that accorded to their own companies or to subsidiaries of companies of any third country whichever is the better.

Joint declaration in relation to article 29 paragraph 3

The Parties confirm that nothing in Article 29 paragraph 3 prevent Russia from adopting any new regulations or measures which would introduce or worsen discrimination as compared to the situation existing on the date of the signature of the Agreement as regards conditions affecting the establishment of non-Community companies in its territory in comparison to its own companies

Exchange of letters in relation to article 29 (conditions of establishment and operations in banking and insurance services)

Letter from Russia

Dear Sir,

I refer to the Partnership and Cooperation Agreement initialled today.

I confirm our understanding that the provisions of the Agreement concerning conditions of establishment and operation of Community companies in Russia were agreed between us and that signature shall go ahead on that basis provided that Russia would not adopt before the signature of the Agreement new measures or regulations which would introduce or worsen discrimination vis à vis Russian companies as compared to the situation existing on today's date as regards conditions affecting the establishment and operation of Russian subsidiaries of Community companies in Russia with the exception of those which comply with sub-paragraphs (d) and/or (e) of paragraph 1 Part A, and/or paragraph 2 of Part B of Annex 7.

I would be obliged if you would confirm the agreement of the Community to the content of this letter.

Joint Declaration in relation to article 30

The Parties confirm the importance of ensuring that the granting of licences referred to in Article 30, paragraphs (a) and (g) of this Agreement:

- **shall be based on objective and transparent criteria, such as competence and the ability to supply the service;**
- **shall not be more burdensome than necessary to ensure the quality of the service;**
- **shall not in itself constitute a restriction on the supply of the service."**

Joint declaration in relation to Article 30 a) and g)

Article 30 a), second paragraph and g), second paragraph take into account the specificity of access to financial services as it is agreed in the framework of this Agreement, and do not affect the definitions of "establishment" and "operation" as they apply to financial services for other purposes than the purpose of this Agreement.

Joint Declaration in relation to the notion of "control" in article 30(b) and article 45

1. The Parties confirm their mutual understanding that the question of control shall depend on the factual circumstances of the particular case.

2. A company shall, for example, be considered as being "controlled" by another company, and thus a subsidiary of such other company if:

- the other company holds directly or indirectly a majority of the voting rights, or

- the other company has the right to appoint or dismiss a majority of the administrative organ, of the management organ or of the supervisory organ and is at the same time a shareholder or member of the subsidiary.

3. Both Parties consider the criteria in paragraph 2 to be non-exhaustive.

Joint Declaration in relation to article 30 (h), 3rd subparagraph

Taking into account the restrictions existing at present concerning the carriage of goods and passengers by inland transport modes, the Parties agree that until such restrictions are lifted, the expression "intermodal transport operations involving a sea-leg" is understood to mean the organisation of such operations.

Joint Declaration in relation to article 31

The provisions of Article 31 permit the Parties to apply any measure intended to prevent circumvention by a company of a third country of the measures of the Parties concerning establishment of companies of that third country in its territory by means of any possibility provided for in this Agreement.

Joint declaration in relation to Article 34, paragraph 1

Taking into account the explanations given by Russia to the Community that in certain respects and for certain sectors the treatment granted to Russian subsidiaries and branches of Community companies is better than the treatment offered to Russian companies in general, namely national treatment, the Parties agree that if measures were introduced by Russia to align the treatment of Russian subsidiaries and branches of foreign companies down to national treatment, this cannot be considered to violate the obligation on Russia to use its best endeavours contained in this paragraph.

Joint declaration in relation to Articles 34 and 38

The Parties agree that if either Party were to be of the view that the other had not correctly interpreted the terms "significantly more restrictive" in Articles 34(2) or 38(3), such Party may have resort to the procedures set out in Article 101.

Joint declaration in relation to article 35

The Parties agree that the activities referred to in subparagraphs (a) and (b) do not include acting as a carrier.

Community declaration in relation to article 36

The Community declares that the cross-border supply of services as referred to in Article 36 does not imply the movement of the service supplier into the territory of the country where the service is destined, nor the movement of the recipient of the service into the territory of the country from which the service comes.

Declaration by Russia in relation to article 36

Russia declares that the suppliers in Community declaration in relation to Article 36 could not be considered as a natural persons, who are representatives of a Community or Russian company and are seeking temporary entry for the purpose of negotiating the sales of cross-border supply services or entering into agreements to sell cross-border services for that company.

Joint declaration in relation to Article 39, para 2 (c), 2nd subpara.

On the basis of the information provided by the Russian side concerning their ports open to foreign vessels, the Community takes note that Russia intends to continue its effort to increase the number of ports open to foreign vessels. The Russian side also notes the Community's policy of maintaining open to foreign vessels all ports open to international trade. The Parties to this Agreement consider that the degree of openness of ports to foreign vessels is an essential feature of an assessment of the conditions necessary for the free supply of services in international maritime transport. They therefore undertake to review the situation regarding ports open to foreign vessels at least every two years through consultations to be held in the framework of the Cooperation Council. If serious difficulties arise in maintaining a port open to foreign vessels, the Party in whose territory the port concerned is situated shall inform the other Party; at the request of the latter, consultations shall be held so as to ensure that any action taken affects as little as possible the free supply of international maritime services.

Joint declaration in relation to article 39.2(c), 2nd subpara.

The Parties agree after the expiry of five years from the date of entry into force of this Agreement to consider the possibility of application of the provisions of Article 39.2(c), 2nd subpara to vessels under a third flag operated by shipping companies or nationals of a Member State or Russia respectively.

Joint declaration in relation to article 44

For the purposes of this Agreement, an economic integration agreement shall be an agreement in accordance with the principles set out in Article V of the General Agreement on Trade in Services ("GATS"). In respect of any aspect of this Agreement covering areas other than service activities an economic integration agreement shall be an agreement in accordance with the principles set out in Article XXIV of the GATT on the creation of free trade areas or customs unions.

Joint declaration in relation to article 46 (2)

The Parties confirm their mutual understanding that the question of whether activities are connected, even occasionally, with the exercise of official authority in their respective territories, depends upon the circumstances of each particular case. An examination, in each particular case, whether such activities are connected with

- the right to use physical constraint; or
- the exercise of judicial functions; or
- the right unilaterally to enact binding regulations

will help to determine the answer to such questions.

Joint declaration in relation to article 48

The sole fact of requiring a visa for natural persons of certain Parties and not for those of others shall not be regarded as nullifying or impairing benefits under a specific commitment.

Exchange of letters in relation to article 52

Letter from Russia

With reference to Article 52 of the Partnership and Cooperation Agreement, I confirm that nothing in this article shall be construed as restricting the transfer abroad by Community residents of investments made in Russia by Community residents, including any compensation payments arising from measures such as expropriation, nationalisation or measures of equivalent effect and of any profit stemming therefrom.

I propose that this letter and your reply will establish a formal agreement between us.

Joint Declaration in relation to Article 52 (Definitions)

"Current payments"

"Current payments" are payments connected with the movement of goods, services or persons made in accordance with normal international business practice and do not cover arrangements which materially constitute a combination of a current payment and a capital transaction, such as deferrals of payments and advances which is meant to circumvent respective legislation of the Parties in this field.

This definition does not preclude Russia from applying or enacting legislation which lays down that such payments must be carried out through those Russian banks which have received the respective licences from the Central Bank of the Russian Federation to carry out such operations in freely convertible currencies.

"Direct investment"

"Direct Investment" is an investment for the purpose of establishing lasting economic relations with an enterprise such as investments which give the possibility of exercising an effective influence on the management thereof, in the country concerned by non-residents or abroad by residents, by means of:

1. Creation or extension of a wholly owned enterprise, a subsidiary or a branch, acquisition of full ownership of an existing enterprise;
2. Participation in a new or existing enterprise;
3. A loan of five years or longer.

"Freely convertible currency"

"A freely convertible currency" is any currency considered as such by the International Monetary Fund.

Joint Declaration in relation to Article 53(2.2)

"Primary products" are those defined as such in the GATT.

Joint declaration in relation to article 54

The Parties agree that for the purpose of the Agreement, intellectual, industrial and commercial property includes in particular copyright, including the copyright of computer programmes, and neighbouring rights, patents, industrial designs, geographical indications, including appellations of origin, trade marks and service marks, topographies of integrated circuits as well as protection against unfair competition as referred to in article 10 bis of the Paris Convention for the Protection of Industrial Property and protection of undisclosed information on know-how.

Community declaration in relation to article 54

The provisions of the Agreement are without prejudice to the competences of the European Community and its Member States in matters of intellectual, industrial and commercial property.

Joint declaration in relation to article 99

The Parties agree that the measures provided for in Article 99 shall not be taken with the aim to distort conditions of competition in relevant markets and thus to afford protection to domestic production.

Joint declaration in relation to article 101

The Parties invite the Cooperation Council to examine forthwith the rules of procedure that may be useful for dispute settlement under this Agreement.

Joint Declaration in relation to article 107

The Parties agree, by common consent, for the purpose of its correct interpretation and its practical application that the terms "cases of special urgency" included in Article 107 of the Agreement mean cases of material breach of the Agreement by one of the Parties. A material breach of the Agreement consists in

(a) repudiation of the Agreement not sanctioned by the general rules of international law

or

(b) violation of the essential element of the Agreement set out in Article 2.

Joint declaration in relation to article 107 paragraph 2

The Parties agree that "appropriate measures" referred to in Article 107 paragraph 2 are measures taken in accordance with international law.

If a Party takes a measure in a case of "special urgency" as provided for under Article 107 paragraph 2, the other Party may avail itself of the procedure provided for in Article 101.

Joint Declaration in relation to articles 2 and 107

The Parties declare that the inclusion in the Agreement of the reference to the respect for human rights constituting an essential element of the Agreement and to cases of special urgency flows from

- the Community's policy in the area of human rights, in conformity with the 11 May 1992 declaration of the Council which provides for the inclusion of this reference in cooperation or association agreements between the Community and its CSCE partners, as well as
- Russia's policy in this field and
- the attachment of both Parties to the relevant obligations, arising in particular from the Helsinki Final Act and the Charter of Paris for a new Europe.

Joint declaration in relation to article 112

The Parties confirm that although the present Agreement replaces the Agreement of 18 December 1989 regarding relations between the Parties, the Agreement shall not prejudice or otherwise affect any measures taken before the entry into force of the present Agreement or agreements made between them before that date in conformity with the 1989 Agreement and this upon the conditions and for the period of application contained in such measures or agreements.

Joint Declaration in relation to article 6 of Protocol 2

1. The Parties agree to take the necessary measures in order to assist each other, as provided for in this Protocol and without delay, for the following movements of goods:

   a) movement of arms, ammunition, explosives and explosive devices;

   b) movement of objects of art and antiquity, which present significant historical, cultural or archaeological value for one of the Parties;

   c) movement of poisonous goods as well as the substances dangerous for the environment and the public health;

   d) movement of sensitive and strategic goods subject to non-tariff limitations in accordance with the lists agreed upon by the Parties.

2. The Parties agree, if permitted by the basic principles of their respective legal systems, to take the necessary measures to allow the appropriate use of the controlled delivery technique on the basis of mutually agreed implementing provisions adopted by them in accordance with the procedures of this Protocol.

3. The Parties agree to take all necessary measures, in accordance with their respective legislation, in order:

   - to deliver all documents,

   - to notify all decisions,

   falling within the scope of this Protocol to an addressee, residing or established in their respective territories on the basis of mutually agreed implementing provisions adopted by them in accordance with the procedures of this Protocol. In such a case Article 5 (3) is applicable.

4. The Parties agree that when the requested authority cannot act on his own, the administrative department to which the request has been addressed by this authority shall proceed under the same conditions applicable to the requested authority.

Outside the Agreement:

Exchange of letters on the consequences of enlargement

Letter from the Community

Dear Sir, I refer to the Agreement on Partnership and Cooperation signed today and confirm that if any amendment to this agreement might become necessary as a result of an enlargement of the Community, this would become the subject of consultations between the Parties pursuant to Article 90 and in this context account would be taken, to the extent possible, of the character of bilateral trade and economic relations between Russia and acceding States.

I would be obliged if you could confirm the agreement of Russia to the content of this letter.

Exchange of letters on Uruguay Round

Letter from the Community

Dear Sir, I refer to the Agreement on Partnership and Cooperation signed today and confirm our agreement that one change of circumstances, within the meaning of Article 4 of the Agreement, where it would be appropriate to examine whether amendments should be made to the Agreement, would be the situation arising upon the entry into force of the Uruguay Round multilateral agreements and the conclusion of amendments to the GATT, its codes and other agreements relating thereto.

I would be obliged if you could confirm the agreement of Russia to the content of this letter.