

# GENERAL AGREEMENT ON

RESTRICTED

# TARIFFS AND TRADE

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L/6864

20 June 1991

Limited Distribution

Original: English

## SOVIET UNION

### Communication from the USSR

The following communication, dated 12 June 1991, has been received from the Permanent Mission of the Union of Soviet Socialist Republics.

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The Permanent Mission of the Union of Soviet Socialist Republics conveys the information concerning the USSR national legislation on demonopolization of the economy and securing competition, including the sphere of foreign trade.

The information has been prepared in Moscow and submitted for the purpose to illustrate the USSR economic restructuring process as indicated in our letter of 7 March 1990 (L/6654). It can be distributed among contracting parties in accordance with the GATT procedural rules.

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Statement concerning the USSR national legislation on the economy  
demonopolization and securing competition,  
including the sphere of foreign trade

The USSR antimonopoly legislation is in the process of elaboration. At present there are some separate legislative acts and rules which regulate the activity in this field, pending the adoption of the above-mentioned legislation.

1. Measures of a general economic significance

1.1 The Decree of the USSR Council of Ministers "Concerning Measures on the Economy Demonopolization" dated 16 August 1990 is aimed at the creation of prerequisites for the transition to a vast utilization of market relations. It is aimed as well at shaping changes of the economic mechanism in the process of the reform as antimonopoly-oriented. The Decree provides basic principles for the guidance of state authorities, amalgamations, enterprises and organizations in the field of prevention, restriction and nullification of the monopolistic activity of participants in economic turnover, as follows:

(a) it is inadmissible for participants in economic turnover, who dominate the market:

- to limit and stop production as well as to withdraw the goods from the trade turnover in order to create or support scarcity of the goods in the market, or in order to increase prices;

- to refuse from concluding transactions, while they have real possibilities for production and selling the goods, or the performance of work, or rendering services;

- to force partners to conclude disadvantageous contracts or contracts with terms and conditions which are not relevant to the subject of those contracts.

During the transitional period, participants in the economic turnover whose share exceeds 70 per cent are considered as dominating the market. A different attitude is applied to those participants in the economic turnover whose share is between 35 and 70 per cent. In this case it is necessary to take into account their real possibilities to affect seriously the general conditions of sale of the goods, or the performance of work, or rendering services in the particular regional market;

(b) it is necessary to exclude possibilities for the creation of a dominating position or favourable conditions for the activity of particular participants in economic turnover, if such conditions prevent competition; it is necessary as well to exclude possibilities of concluding illegal transactions between participants in economic turnover hindering the normal functioning of the market and impairing the interests of consumers - enterprises, organizations and citizens.

Transactions and individual actions of participants in economic turnover are to be considered illegal, if they are aimed at the division of the market to limit competition, exclude or limit access to the market of

other participants in economic turnover - sellers or buyers, decrease prices or not to change them for the purpose of unjustified high profits and the removal from competition. However, such transactions or individual actions are admissible only, if there is a permission of the proper antimonopoly authorities;

(c) it is inadmissible to implement unfair competition in the form of:

- misleading consumers (buyers) concerning the denomination of a producer of the goods, his domicile, methods and character of production, peculiar features and quality of the goods as well as whether such goods are suitable for proper application;
- use of trade marks, firm denominations, marking (labelling) without permission of the participant in economic turnover, in the name of whom they are registered;
- unwarranted use or disclosure of scientific, technical, production (know-how) or commercial information.

In the case of violation of the above principles, participants in economic turnover or authorities and their officials are to bear due responsibility.

Antimonopoly bodies, State arbitrators or courts are entitled to send in a legitimate manner orders stating the termination of the violation or the restoration of the primary situation, or binding to transfer unjustified profits to the state budget (i.e. all-Union, Republican or local) or to change the production structure, or to break an enterprise into smaller units, or to offset suffered losses.

1.2 In order to implement the state control for securing competition and limiting monopolistic activities, the USSR Antimonopoly Committee is to be established. It will be responsible, in particular, for:

- working out measures to secure competition and overcome monopolistic tendencies;
- implementing measures for the demonopolization of production and trade turnover, the establishment of small-sized enterprises, organizations and other units;
- summary analysis of the market and competition; expert evaluation of legislative acts regulating market activities;
- preparation of proposals in connection with the improvement of the antimonopoly legislation and the practice of its application;
- studies of materials connected with the establishment, reorganization and liquidation of big-size participants in economic turnover as well as in the case of violation of the antimonopoly legislation, within the scope of its terms of reference;
- expert evaluation of big investment projects from the point of view of their possible monopolistic aspects.

It has been noted that similar antimonopoly bodies may be set up in Republics of the USSR. The USSR Antimonopoly Committee will coordinate their activities on the basis of equal relations and mutual interests in the all-Union market.

1.3 A draft of the USSR Basic Law on Antimonopoly Activities is being worked out. It has the goal to provide for legal and organizational basic rules for securing competition as well as measures to prevent, restrict and nullify monopolistic activities and unfair competition in the USSR economy. It will settle, in particular, the prohibition to abuse a dominating position in the market, illegal transactions, unfair competition, discrimination among participants in economic turnover and impairment of their independence. Moreover, due attention will be paid to the state control for securing competition and the restriction of monopolistic activities as well as to the responsibility for the violation of the antimonopoly legislation.

The Draft Basic Law is being considered now in the USSR Supreme Soviet (i.e. parliament).

## 2. Measures in the field of external economic relations

2.1 The USSR Council of Ministers Decree "Concerning Further Development of External Economic Activities of State, Cooperative and other Collective Enterprises, Amalgamations and Organizations" dated 2 December 1988 has stipulated that since 1 April 1989 all enterprises, amalgamations, producing cooperatives and other organizations, products of which (work services) are competitive in the foreign market, are entitled to carry out directly export and import operations.

2.2 The USSR Council of Ministers Decree "Concerning Measures on the State Regulation of External Economic Activities" dated 7 March 1989 has entitled the State External Economic Commission of the USSR Council of Ministers, on the plea of the USSR Ministry of External Economic Relations and Union Republics' Councils of Ministers, to suspend the operations of participants in external economic relations in case that unfair competition takes place or their activities injure interests of the state.

2.3 The Decree of the USSR Council of Ministers dated 16 August 1990 (see para 1.1 of this document) in particular provides for:

- the cessation of the direct subordination of the state external economic amalgamations with the USSR Ministry of External Economic Relations and their transformation into joint-stock companies and other organizational units with a broader diversification of external economic activities;
- the setting up on a voluntary basis of miscellaneous external economic associations of a non-monopolistic nature in order to coordinate attempts to the broaden business activities of their participants in the foreign market and to prevent both Soviet and foreign participants in economic turnover from unfair competition;
- putting into effect the All-Union System of External Economic Information.

2.4 The USSR Cabinet of Ministers (i.e. a new denomination of the USSR government) has entitled the USSR Ministry of External Economic Relations to carry out consultations with governmental bodies of other countries in connection with the implementation of the Set of the Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, for the purpose of the control of such practices in the field of external economic relations. There are intentions to set up an information system of restrictive business practices, to elaborate measures to keep participants in external economic relations informed of the above-mentioned set of Principles and Rules as well as practices of control for RBP in other countries.