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from: Working Party on Eastern Europe and Central Asia
dated: 9 November 2010
to: Permanent Representatives' Committee

Subject: RELATIONS WITH RUSSIA:
– Key outstanding issues for the EU in its relations with Russia

Delegations will find attached the key outstanding issues for the EU in its relations with Russia, as agreed by the Working Party on Eastern Europe and Central Asia.

The Permanent Representatives' Committee is invited to take note of this document in view of the upcoming EU-Russia Summit in Brussels on 7 December 2010.

KEY OUTSTANDING ISSUES FOR THE EU IN ITS RELATIONS WITH RUSSIA

This document gives an overview of key outstanding issues in EU-Russia relations on which the EU seeks progress from the Russian side. It is produced at regular intervals as a follow-up to the assessment report on relations with Russia adopted by the GAERC in February 2004.

The document serves as an internal reference document. It does not prejudge the further evolution of these issues, the relevant EU objective or the line to take. Further, it does not exclude that other issues may be added at a later stage.

A number of additional issues have been included to reflect subjects which are of mutual interest or on which Russia seeks progress.

I. GENERAL ISSUES

NB

Work in the context of the Partnership for Modernisation should contribute to making progress in solving outstanding issues.

Political dialogue

The issue: Large number of meetings.

EU objective: Optimizing the dialogue. Effectiveness should be the basic criterion for the framework of EU-Russia relations. There is room to optimize the EU-Russia dialogue, including at the highest level, with a view to making it more effective, without this signalling any reduction in the intensity of relations with Russia.

Line to take: The EU wants a productive and balanced political dialogue with Russia. This should happen at all levels, cover all fields of common interest, and take into account the implementation of the four common spaces. This includes the many opportunities for co-operation on the international scene, and notably in the common neighbourhood.

PCA Institutions

The issue: Russia has refused to agree to meetings of the Cooperation Committee since 2004, citing internal coordination problems. In addition, for several years now, it has not proved possible to convene most PCA sub-committees.

EU objective: Continue to press Russia on need for ensuring senior-official level coordination of work under the Common Spaces and on PCA implementation.

Line to take: The EU and Russia must together rapidly agree on a format in which to discuss outstanding issues that is compatible with the PCA, in order to reduce the number of technical issues that feature on the agendas of the Summit and the Foreign Ministers PPC meetings.

Kaliningrad Region

The issue: Russia has proposed further facilitation of travel of persons from Kaliningrad in addition to what is provided in the transit regime and the Visa Facilitation Agreement.

EU objective: To promote the development of the Kaliningrad Region as an integral part of both Russia and the Baltic Sea region by promoting overall socio-economic development, ensuring a safe and predictable business climate, protecting the environment and promoting cross-border cooperation. To promote efficient functioning of transit of persons and goods.

Line to take: Express willingness to work with Russian authorities to promote the development of Kaliningrad Region and to address matters of concern and to explore practical solutions, in line with the existing possibilities under the Schengen acquis (in particular the Local Border Traffic regulation). Note that the Commission is currently in the process of finalising a second evaluation report on the application of the Local Border Traffic regime. This report is expected to address the question of the current definition of the border zone, including the specific situation of Kaliningrad. Point to the existing arrangements for facilitated transit (FTD/FTRD). The EU expects constructive negotiations on introducing amendments to the Visa Facilitation Agreement, which will benefit all citizens, including residents of the Kaliningrad region, taking into account security and migration policy aspects.

II. COMMON ECONOMIC SPACE

Russia's WTO accession remains a key element necessary to develop further EU-Russia trade relations. WTO accession would bring immediate benefits in terms of lower import duties, as Russia has committed to removing its "anti-crisis" duties on accession. Further tariff liberalisation would follow after accession in accordance with the schedules that Russia has agreed to. Russia would also be obliged to fulfil upon its accession all the bilateral WTO commitments that were negotiated previously, which would enable the resolution of many current non-tariff barriers.

The EU therefore continues to support Russian WTO membership in spite of delays caused by the establishment of the Customs Union between Russia, Kazakhstan and Belarus. The creation of the Customs Union has implications for bilateral trade and economic relations as a whole, including the resolution of a number of outstanding issues, the negotiations on the New Agreement to replace the PCA and the prospects of further bilateral economic integration. The EU urges Russia to clarify in full the impact of the Customs Union on its trade regime and on its future trade related commitments and obligations in the WTO and New Agreement contexts.

Siberian Overflights/ Aviation issues

- The issue: In November 2006, the Commission and the Russian Government initialled an agreement on the abolition of Siberian overflight payments to put an end to a practice which costs EU industry about €330m a year, mostly to the benefits of a single operator, Aeroflot. The agreement was adopted by the EU Transport Council in May 2007. In November 2007, the EU was informed that the Russian government had approved the agreement, but that signature could not take place until after negotiations on Russia's WTO accession are completed. Since then the Russian side has refused to discuss the issue. Russia also opposes the insertion of an EU designation clause, ensuring equal treatment of all EU carriers, in bilateral aviation agreements with EU Member States.
- EU objective: Signature and implementation of the November 2006 agreement. Insertion of EU designation clauses in bilateral aviation agreements with Member States.
- Line to take: Siberian overflight charges have a significant economic impact on EU operators. The charges violate international aviation law and lead to distortion of competition both internationally and on the Russian domestic market. Linking a resolution to the timing of Russian WTO accession is not acceptable. Russia should stand by its commitments and implement the November 2006 agreement. Russia should recognise the need for an EU designation clause in aviation agreements with EU Member States, ensuring equal treatment of all EU carriers.

Discriminatory railway tariffs

- The issue: The Russian system of tariffs for rail freight transport discriminates between domestic and international destinations, as well as between different international destinations for domestic freight and freight in transit. This affects economic operators both in the EU and Russia. The existence of more favourable fees when freight is bound for Russian ports has favoured the use of Russian ports to the detriment of those located in the EU. In the framework of Russia's WTO accession negotiations, some progress was made - Russia has indicated a possibility to undertake a commitment on import and export tariffs with a transition period. In 2004 Russia started to gradually harmonise its tariffs for a number of goods, however, the process has been stalled since 2009 with no clarity about next steps.
- EU objective: Elimination of discriminatory fee system for railway cargo.
- Line to take: The EU considers that the current system is discriminatory and not in line with WTO rules and should, therefore, be eliminated. The EU would also wish Russia to clarify the implications of the Customs Union between Russia, Kazakhstan and Belarus on the harmonisation of rail freight transport tariffs.

Discriminatory road charges

- The issue: Russia began to implement a new road user charge scheme on goods vehicles on 1 February 2009. The scheme is discriminatory as the charges apply only to vehicles registered in certain EU countries, in Switzerland and Turkmenistan. Under the EU-Russia PCA (article 11), such discriminatory charges are not allowed.
- EU objective: Seek to end the scheme and to avoid new barriers and imbalances in trade and transport relations. Use the EU-Russia Transport Dialogue as the appropriate framework to discuss planned future policy initiatives.
- Line to take: The EU urges Russia to revoke this measure with immediate effect. Such charges are discriminatory and therefore not allowed under the PCA. The EU is in favour of road charging, making the user and the polluter pay, but such charges, if applied, should be applicable to all users, both domestic and foreign, in a non-discriminatory way.

Export duties for raw materials (including wood)

- The issue: Russia uses export duties as an instrument in its trade policy. Currently a range of products are affected by export duties, most notably wood, scrap metal, leather and other raw materials. Russia has an export tax on non-ferrous scrap metal, generally varying between 30%-50%, depending on the scrap, with a minimum charge of between €180-€720/tonne. Export duties on ferrous scrap are reaching 15%. Russia has been increasing its export duties on wood gradually since 2007 (Government Resolution 75) which in many cases can be as high as €100/m³. In December 2008, the Russian Government postponed until 1 January 2010 the planned further increase of duties on those wood products which constitute major EU imports, while simultaneously reintroducing export duties on some semi-processed wood products and increasing duties on some precious wood groups. Last December Russia decided to postpone again this further rise in export duty on wood for another year until 2011. However, the existing duty levels, and the lack of predictability regarding the application of duties and possible future changes in their levels, have seriously affected the export of round wood from Russia to the EU.
- Russia has high export taxes on oil and gas products which is an area where Russia practices dual pricing. This makes energy artificially cheap for the domestic processing industry, causing an unfair advantage to producers in the energy intensive sectors (metal, fertilizer, chemical production) as their costs are unfairly low. This has led to energy intensive products being potentially dumped for exports.
- Russia has recently increased its export duties on nickel (from 5% to 10%) and copper (from 0% to 10%) at the end of 2010. Russia being a major supplier of the EU (50% for nickel and 30% for copper) this will have a negative impact on the EU users.

EU objective: Seek to have all, present and future, export duties eliminated or at least substantially decreased in order to facilitate the resumption of affected trade flows in raw materials including wood products. Restoring normal market mechanisms would help to bring forward investments in the sectors concerned. Seek clarity on whether further duty increases for wood will be implemented as of January 2011 and urge Russia to refrain from any such increases.

Line to take: Russia should respect its commitments under the bilateral EU-Russia agreement of 2004 on WTO accession. Russia should refrain from any further duty increases as of January 2011. Russia should move towards elimination of export duties on wood, in line with the 2004 agreement between the EU and Russia on WTO accession. In this agreement, Russia committed itself to phasing down export duties on most key tariff lines upon WTO accession. These restrictions have already had negative effects on the Russian economy, as has been illustrated by losses in such sectors as metals and wood, aggravated by the global economic and financial crisis.

Sanitary and phytosanitary issues

The issue: In a number of cases, Russian SPS measures are non transparent, discriminatory, disproportionate and not in line with international standards and norms. These measures appear to constitute disguised trade restrictions aimed at protecting Russian domestic production from foreign imports.

EU objective: Avoid trade disruptions caused by SPS measures. Ensure that Russia abides by and enhances harmonisation of its system with international norms and standards set out in the Codex Alimentarius, in the International Plant Protection Convention, and by the International Office of Epizootics. Encourage early preparation of the implementation of Russia's future SPS commitments to ensure full compliance with the WTO/SPS Agreement from the date of Russia's accession to the WTO. Obtain clarification of the consequences of the Customs Union formation on their SPS norms. Seek a response to the EC's formal request to review a list of applied SPS measures under Government Decree 761.

Line to take: Dialogue on various technical issues needs to continue in the SPS field in a transparent way and with the shared objective to find urgent solutions to pending problems. Russian SPS measures should be in line with international standards and the principles of proportionality and scientific justification. The EU has submitted requests in the framework of Decree 761 on harmonisation of Russian norms with international standards. These requests will be taken as a test case of the Russian will to ensure continuous preparation in order to fully comply with its SPS obligations as soon as it joins the WTO. Russia should implement its legislation in a non-discriminatory and proportionate manner. The consequences of the Customs Union on the SPS norms of Customs Union members should be clarified. Russia should respond to the specific concerns raised by the European Commission under Decree 761.

Protection and enforcement of Intellectual Property Rights

- The issue: The level of protection of IPR in Russia does not meet the standards required by the PCA and the TRIPs Agreement. To note that during negotiations on WTO accession, Russia confirmed its intention to apply the WTO TRIPs Agreement as from the date of accession. Under the current PCA, Article 54 and Annex 10, Russia committed itself to improve the protection of IPR in order to provide a level of protection similar to that existing in the EU.
- EU objective: Ensure that IPR are properly respected and enforced in Russia. Ensure that Russia implements its PCA commitments, approximate its legislation to that of the EU, and complies with the TRIPs Agreement from its accession to WTO at the latest. Continue to raise these issues in the context of the IPR dialogue.
- Line to take: Russia should reduce the current high levels of piracy and counterfeiting. The IPR legislation, particularly with regard to pharmaceuticals, should secure appropriate protection of right holders' data and be otherwise in line with the commitments undertaken by Russia in the context of its WTO accession. Enforcement of IPR, including of geographical indications, remains a major problem and Russia should intensify its efforts to improve the situation.

Deteriorating investment climate

- The issue: Russian actions including the introduction of Federal Law #57 'On procedure for foreign investments in business entities bearing strategic importance for national defence and security', changes to the Subsoil Law, the intention to impose local content requirements for investors and Russia's renunciation of the Energy Charter Treaty with its emphasis on protecting investments; as well as the treatment of a number of investors have increased uncertainty and reduced business confidence and the attractiveness of Russia as an investment destination, most notably in the oil and gas sector. Corruption continues to be widespread.
- EU objective: To highlight to the Russian authorities the considerable negative consequences of the current FDI climate in Russia and to urge improvements in predictability and the investment framework.
- Line to take: Russia's recent actions have decreased predictability and introduced greater risk into the process of investing in Russia, whereas Russia should be trying to attract and reassure investors. Restricting foreign investment in strategic sectors is unlikely to benefit the Russian economy, as the more important and economically strategic a sector, the more indispensable it is to attract the necessary investment which brings with it technology transfer and research and development. EU investors will continue to monitor closely Russia's attitude to and treatment of foreign investment, carefully reviewing their risks. Effective steps to fight corruption are needed. Russia is encouraged to take necessary steps to be able to accede to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. The current review of the Strategic Investment legislation by the Russian government should be used to make investment conditions less restrictive.

Work permits/long-term visas

- The issue: The practical difficulties of obtaining work permits and work visas/long-term visas are becoming more and more sizeable for EU businesses. EU businesses therefore cannot rely on smooth access to, and renewal of, their expatriate workforce. Russia has recently adopted legislative amendments to the law on admission of highly skilled workers which simplifies many procedures. However, there is still the issue of registration which calls for improvements.
- EU objective: Full implementation of the amended legislation in practice across the whole Russian territory. Obtain further improvements in particular with regard to the registration procedures.
- Line to take: Welcome the legislative amendments which entered into force earlier in 2010. Call for their full and correct implementation not only in Moscow but also in other major cities. Underline the importance of transparent and predictable implementation of the relevant Russian legislation. Inquire about the expansion of the one-window-service of the Federal Migration Service to apply for work permits to all EU businesses and to cities other than Moscow, as well as for the simplification of registrations and notification procedures.

Import tariff increases

- The issue: The "temporary" anti-crisis measures that Russia adopted since 2008 and that already had a negative impact on EU exports (notably tariff increases on cars, harvesters, steel products and a range of agricultural products) were consolidated in the Common External Tariff of the Russia-Kazakhstan-Belarus Customs Union since 1 January 2010, and thereby extended to all three countries. This situation has led to worsening trade conditions for the EU operators and represented a move in the opposite direction to Russia's WTO accession commitments on tariffs. Despite the initial promise that an internal government review of Russia's anti-crisis measures would be undertaken, there is still no indication that imminent changes are planned.
- Contrary to its obligations, Russia did not agree to hold consultations with the EU under Article 16 of the PCA, before increasing the tariffs nor take into account EU concerns about the impact of the increases on trade and investment. Moreover, Russia has not even formally notified the EU of the introduction of the Common External Tariff of the Customs Union.
- EU objective: To restore the pre-crisis trade conditions, introduce stability and predictability into the trade regime and redress the current imbalance in our bilateral trade relationship. Specifically this means reversal (or at least reduction) of the import tariff increases introduced during 2008-2009.
- To ensure that meaningful consultations are held and EU interests are taken into account before further changes to the trade regime are planned.

Line to take: The creation of the Customs Union has resulted so far in more protectionism and worse trading conditions. Increasing tariff protection is not in line with Russia's G20 commitments, and has been imposed without regard to the procedures set out in article 16 of the PCA, under which Russia is bound to hold formal consultations prior to the adoption of tariff increases. Removal or reduction of these tariffs, especially considering the phasing out of the global economic crisis, would also show that Russia is serious about its G-20 anti-protectionism commitments and its aim to reform its tariff regime in line with its future WTO commitments. It would also increase the competitiveness of the Russian economy and benefit Russian consumers.

Climate change

The issue: Russia is one of the priority countries for the EU on climate change, which remains an issue of only moderate interest in Russia, though there are some signs that this is changing, particularly regarding measures to combat climate change which coincide with Russia's economic and modernisation goals. Domestic targets to improve energy efficiency and to for increase the share of renewables, as well as improvements in forest management offer the prospect of low carbon economic development. The Climate Doctrine adopted in December 2009 may become a turning point in Russian climate change policy, and it signals a significant advance of Russian official thinking.

However, after the Copenhagen Accord, the Russian GHG reduction target range has become less ambitious, i.e. instead of 20-25% below 1990 levels by 2020 as announced last year, Russia now indicates 15-25%. Moreover, this target has preconditions: Russian forests and their contribution as GHG sinks have to be recognised, and all major emitters have to take legally binding reduction obligations. This is far from being sufficient. Due to Russia's location as a neighbour of the EU, its climate policies have a direct impact on the EU. In the light of current and possible future climate-related EU commitments, there is a risk of carbon leakage and competition distortion in the trade of energy and goods, which can also have detrimental effects on energy security, in particular for electricity.

Russia's GHG emissions remain about 30% below 1990 levels. Because Russia's emissions are well below reduction targets as foreseen for the first commitment period, Russia is at present the biggest owner of Assigned Amount Units ("AAUs") surplus. This has arisen because of a combination of factors, including the domestic economic contraction and the weak emission reductions target for Russia under Kyoto. Domestic targets to improve energy efficiency and to increase the share of renewables can reduce Russia's carbon emissions even further.

EU objective: (i) Ensure the Russian government continues to develop and implement policies and legislation which reduce Russian greenhouse gas emissions. (ii) Ensure Russia's effective implementation of the Kyoto Protocol and its flexible mechanisms, including, but not limited to, Joint Implementation. (iii) Apply pressure on Russia seeking more ambitious GHG emission reduction than the current commitment of 15-25% reduction by 2020, which in practice would enable Russia to increase its GHG emissions substantially or create new AAU surpluses. Stress EU expectations that Russia will contribute to the international financing for action in developing countries, agree the common rules on future treatment of the surplus of AAUs so that the handling of the AAU surplus does not affect the environmental integrity of any future agreement, and secure Russia as a constructive partner for preparing and concluding a global and comprehensive post-2012 agreement.

Line to take: The EU and Russia need to play a leading role in moving the post-2012 climate change (UNFCCC) negotiations forward. Point out that the developments of the summer of 2010 demonstrate our common interest to address climate change together, both at the level of negotiations for an international legal framework and in concrete mitigation and adaptation. Welcome the practical cooperation with Russia in areas mitigating and adapting to climate change and concrete actions in priority areas under the EU-Russia Partnership for Modernisation, such as promoting a sustainable low-carbon economy and energy efficiency. Highlight the advantages to Russia of being a proactive player in fighting climate change and stress the fact that "green" investments will contribute to a positive long-term economic development. Emphasize joint concerns and common interests including the importance of addressing financing and offer to constructively discuss key questions for Russia including forestry accounting rules and banking of CO₂ surpluses. The surplus of Assigned Amount Units ("AAUs") could affect the environmental integrity of the Kyoto Protocol if not addressed appropriately. The Russian pledge being 15-25% reduction from 1990 levels *including* forestry accounting bonuses for Russia means that the pledge *excluding* those bonuses is a mere 5-15% reduction. (That 10% difference alone represents some 1.8% of global 1990 emissions).

The EU is ready to share its experience as necessary. Joint Implementation (a mechanism allowing a country with an emission reduction commitment under the Kyoto Protocol to earn emission reduction units from an emission-reduction or emission removal project in another country) is one key instrument within the Kyoto Protocol that can be used for promoting energy efficiency in Russia.

Black Sea Convention and Transboundary River Basin Agreements

The issue: The EU is seeking to become a Party to the Convention on the Protection of the Black Sea against Pollution and Transboundary River Basin Agreements for the Neman and Western Dvina. There appears to be a pattern of Russian reluctance to admit the EU into further regional environmental agreements.

EU objective: The EU is already a Party to the regional sea conventions relating to the Baltic Sea, the Mediterranean and the North East Atlantic.

Following the accession to the EU of Latvia, Lithuania and Poland, the EU should further become a Party to the management agreements to be established as required by the Water Framework Directive for the transboundary river catchments of the Neman and Western Dvina.

Following the accession of Bulgaria and Romania to the EU, the EU should also become a Party to the Black Sea Convention. This requires an amendment to the Convention to allow a 'Regional economic integration organization' to accede.

Line to take: Urge Russia to agree to the accession of the EU to the Black Sea Convention and to the Transboundary River Basin Agreements given the substantial EU competence on the issue. Welcome that Russia agreed at the Sofia Ministerial meeting for the Black Sea in April 2009 to engage in a process towards an amendment; express readiness to work on this issue bilaterally in the context of the EU-Russia environmental dialogue.

Energy issues

The issue: After previous energy disruptions and in view of concerns on investment issues in the Russian energy sector, Russia and the EU need to re-build confidence and ensure predictability and a stronger legal framework in EU-Russia energy relations. Russian accession to WTO and substantial energy-related provisions in the New Agreement would give a broad legal framework and predictability. Russia's withdrawal from the plurilateral framework provided by the Energy Charter Treaty makes it more difficult to make progress on a common international legal framework for investment protection, transit and trade of energy products in the short term through this avenue. Furthermore, the lack of opening of parts of the Russian energy market and difficult investment conditions restrain necessary investments in the energy sector. Within the EU, the compliance by Russia and Russian companies with the EU's internal energy market rules (Third Package) needs to be ensured.

EU objective: To develop a strong energy partnership with Russia based on principles of transparency, fair competition, reciprocity and non-discrimination. Avoid future supply and transit disruptions and continue rebuilding confidence and trust, including as regards investment protection. The New EU/Russia Agreement should provide a legal framework for such cooperation. Despite Russia's withdrawal from the ECT, the principles of the ECT must be enshrined in the New Agreement.

Line to take: Traditionally, the EU is the most important consumer of Russian hydrocarbons, while Russia is the most important energy supplier to the European Union and EU companies are its key foreign investors. This clearly shows our interdependence and creates a common basis for cooperation, trade, and investment.

The New Agreement with Russia should contain provisions on energy that are ambitious and reflect the importance of the energy sector in our relationship. The EU and Russia have agreed that the New Agreement will enshrine the principles of transparency, non-discrimination, fairness, reciprocity, and market economy. The energy chapter of the New Agreement should be based on the principles on the principles of the energy Charter Treaty and the principles on Energy Security agreed at the G8 Summit in St Petersburg in July 2006.

Despite the decision by Russia to withdraw from the Energy Charter Treaty, which the EU regrets, the EU remains of the opinion that the Energy Charter process is the most suitable context to discuss multilateral issues, including the Russian proposal to create a new global legal energy framework from 2009. The EU underlines the importance of the EU-Russia Energy Dialogue as instrument to achieve better mutual understanding and realise common objectives in the field of energy. The Dialogue should make an important contribution to the EU-Russia modernisation partnership.

Neither the EU nor Russia can afford another disruption of energy supply. We must cooperate in order to ensure uninterrupted and guaranteed supply and transit of Russian gas to the European consumers under the best conditions. The conditions for foreign investments in the Russian energy sector are not satisfactory. Announced energy market reforms have only partially materialized.

In relations with Russia, the need for all economic actors in the EU to comply with the requirements of the EU internal energy market will be underlined.

Refer to Russia's expressed commitment to the continuation of oil supplies via the Druzhba pipeline to the EU. Press for clarity about next steps - through exchange of information, joint assessment and cooperation - in particular regarding maintenance and repair work as well as resumption of supplies through the branch of the pipeline that is currently closed.

Prior to any significant electricity trade between Russia and the EU, the parties need to properly address nuclear safety concerns and take into account the principles of economic and environmental reciprocity. In view of the EU objective to fully integrate the Baltic electricity market into the EU market, the question of Kaliningrad Oblast, which would then become technically isolated, requires further consideration.

Nuclear Safety

The issue: The EU has requested that Russia's first generation nuclear reactors (RMBK, VVER 440/230) be closed as they cannot be upgraded to internationally-recognised safety levels at reasonable cost. As a member of the IAEA and a contracting party to the Convention on Nuclear Safety (1994) and the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (1997). Russia has committed to a programme of continuous improvement in the reduction of risk associated with the management civil nuclear sites - this includes the safe management of legacy waste and decommissioning projects. However, and despite the Euratom/Russia cooperation agreement on nuclear safety and substantial technical assistance, Russia has prolonged the lifetime of some of its first generation nuclear reactors, some of which are of the Chernobyl type and are close to the EU's border. Russia has no interest in the EU/Russia joint working group on nuclear safety, which last met in 2002.

Cooperation with Russia under the Instrument for Nuclear Safety Cooperation has been halted due to the unwillingness of Russia to accept the cooperation as defined in the legal basis of the Instrument. In addition, the implementation of a comprehensive radioactive waste management strategy in Russia, as defined in the frame of prior cooperation with the EU, appears to have been seriously delayed. Russia plans to build nuclear power plants close to the EU border. Russia is bound by the Convention on Nuclear Safety but has not ratified the Espoo Convention; It has provided Member States with information on the construction of the Kaliningrad nuclear power plant. Upon this, Member States addressed follow up questions to Russia.

EU objective: To obtain a commitment from Russia to phase out its first generation nuclear reactors. To establish a level playing field in terms of nuclear safety in the framework of the proposed new Euratom-Russia cooperation agreement in the peaceful uses of nuclear energy (for which negotiating directives were adopted by the Council on 22.12.2009), also taking into account the Council Directive on nuclear safety adopted on 25.06.2009. To encourage Russia to increase its financial participation in the Chernobyl funds managed by the EBRD. To examine further collaboration possibilities with Russia under the Instrument for Nuclear Safety Cooperation. To revitalise the dialogue between the EU and Russia on nuclear safety, based in particular on regular consultations, as mentioned in the 2001 Euratom/Russia nuclear safety co-operation agreement.

Line to take: The EU is willing to discuss options on electricity trade; however, Russia should close the first generation nuclear reactors. Prior to any significant electricity trade between Russia and the EU, the parties need to properly address nuclear safety concerns and take into account the principles of economic and environmental reciprocity. Look forward to a revitalised dialogue between EU and Russia on nuclear safety, as foreseen in the relevant Euratom /Russia cooperation agreement on nuclear safety. Invite Russia to keep an open dialogue with the EU about planned nuclear energy generation projects, particularly in the context of cross-border impact assessment issues. As regards the new NPP project in Kaliningrad Oblast near the EU border, full respect of the relevant international nuclear safety and environmental standards and conventions needs to be ensured. Russia needs to respect the Convention on Nuclear Safety. Encourage Russia to fully apply the Espoo Convention and urge Russia to reply fully to questions raised by EU Member States. The EU is willing to examine further collaboration possibilities with Russia under the Instrument for Nuclear Safety Cooperation provided Russia gives concrete signals that it accepts the legal basis of the instrument and of the EU Financial Regulations and clarifies its interpretation of the cooperation scheme.

Spent Nuclear Fuel and Radioactive Waste in NW Russia

The issue: It is important to manage nuclear safety throughout the whole process. Nuclear waste in NW Russia is an issue of particular concern. A large number of nuclear submarines from the Northern Fleet have been taken out of service. Nuclear reactors and spent fuel elements coming from dismantled submarines and icebreakers are often stored in poor conditions and need to be managed according to the highest nuclear safety standards. The EU has contributed around €120 million for nuclear waste management within the Northern Dimension Environmental Partnership Fund (NDEP), and the Member States and other international donors have implemented projects under bilateral cooperation. Russia is also contributing financially and project selection is conducted on the basis of a joint strategic management plan. Russia has recently signalled its intention to remove all spent nuclear fuel from NW Russia by 2020. Dismantling of decommissioned submarines is far advanced, with more than 90 % of submarines dismantled at this stage. The latest developments include the signature of a contract to start the procurement phase for the dismantlement of the Lepshe ship and of a Papa-class submarine. Nevertheless, progress in safer storage has been slow up to now and will require a continued effort in the near future. As a member the IAEA and a contracting party to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (1997) Russia has expressed willingness to reduce the levels of radioactive waste from civil nuclear sites. While this commitment is not legally binding it is significant.

EU objective: To obtain greater commitment from Russia in the NDEP for project implementation. To establish an equivalent level of requirements for the safe management of radioactive waste and spent fuel taking into account international best practice, including transport regulations.

Line to take: Russia should demonstrate a high level of political commitment to spent nuclear fuel and radioactive waste management projects currently planned within the framework of the NDEP and practical steps in the direction of their swift implementation. The EU and Russia should aim at establishing an equivalent level of requirements for the safe management of radioactive waste and spent fuel in the EU and Russia, taking into account international best practice. Enquire about Russia's stated plans to remove all spent nuclear fuel from NW Russia by 2020.

Border Congestion

The issue: Long queues of lorries form regularly at crossing points on the EU-Russian border in FI, EE and LV in the direction of Russia. This constrains trade, causes pollution and negatively impacts local communities. The reasons are mainly related to inefficient customs and border procedures on the Russian side that form an obstacle to trade and can encourage fraud. Similarly, the infrastructure on the border is not properly developed. In 2007, the EU and Russia agreed upon a joint strategy to address border congestion which encompasses three main elements: 1) implementation by Russia of legislative, administrative and procedural measures to improve the situation at the border; 2) a pilot project on pre-arrival exchange of customs information; and 3) joint development of border-crossing and customs infrastructure. However, Russian customs reforms have proceeded at a much slower pace than expected. Additional causes for concern are the announced plan to transfer customs clearance and control activities away from large cities to the border regions and the draft decree restricting the imports of containers by road into Russia. The exchanges of information have not led to the desired results in terms of trade facilitation. Russia has also proved reluctant to carry out the jointly agreed projects for the evaluation of the strategy.

EU objective: To urge Russia to proceed as soon as possible with Russian customs reforms, in particular to reduce the number of agencies at the border by 1 January 2011 as intended and to modernise and simplify control procedures and practices, in order to fully implement the joint strategy in parallel thus reducing congestion and waiting times. To avoid Russian restrictions on container traffic by road. An appropriate mechanism (early warning system) to prevent disruption of trade and congestion on border crossings should be put in place.

Line to take: The EU has been sending pre-arrival customs information from the beginning of 2009, as originally planned. The pre-arrival provision of information has not led to faster border crossing. Russia voiced concerns over the quality of this data but failed to substantiate them with concrete examples. Russia should indicate how it intends to use this information in order to speed up border procedures and deliver the promised customs and border reforms swiftly. A joint evaluation of the implementation of the strategy should be carried out as a matter of priority. Customs clearance procedures such as those adopted in August and December 2009 that discriminate against individual EU MS are not acceptable. An appropriate mechanism (early warning system) to prevent disruption of trade and congestion on border crossings has been discussed preliminarily, and should be put in place. The recent legislative initiative according to which all containers of 20 feet or more must be delivered to Russia by sea or rail would not solve border congestion since the Russian railways do not have required capacity for transporting containers by rail. On the contrary, it would seriously disturb the existing trade flows and curtail operators' freedom to choose the most convenient transport mode on the basis of economic considerations. The EU is concerned about Russian plans to move customs clearance and control activities away from large cities to border regions and urges close consultation of economic operators in order to avoid any disruption to EU-Russia trade.

III. COMMON SPACE OF FREEDOM, SECURITY AND JUSTICE

Readmission

The issue: Effective implementation of the EC-Russia Readmission Agreement (entered into force on 1 June 2007), including the conclusion of the pending bilateral implementation protocols and the proper application of the third country nationals clause which has become fully applicable on 1 June 2010.

EU objective/

Line to take: Stress the importance of full implementation of the Agreement, in parallel with the Visa Facilitation Agreement. Underline the importance of handling all readmission applications in a timely manner, including those requiring organisation of interviews for the purpose of identification of persons with no documents. Urge Russia to conclude bilateral implementing protocols with MS without further delay. Inform that the agreement (including the third country nationals clause) will be evaluated by the Commission together with all other EU readmission agreements in 2010. Encourage further constructive work in the Joint Readmission Committee.

Visa facilitation

The issue: Effective implementation of the EU-Russia Visa Facilitation Agreement. The Agreement needs to be renegotiated in order to align it with recent changes in EU legislation on visas (in particular new rules on the use of external service providers and the charging of additional service fees). Russia has also proposed to modify certain provisions of the Agreement in order to introduce additional reciprocal facilitations.

EU objective/

Line to take: Seek the full, correct and harmonised implementation of the existing Visa Facilitation Agreement in parallel with the Readmission Agreement. Take note of the suggestions of the EU-Russia Joint Visa Facilitation Committee for amendments and additions to the Agreement. The EU expects constructive negotiations. Underline the role of the Joint Visa Facilitation Committee as a format to discuss all issues related to the implementation of the Agreement, including Russia's excessively complicated registration procedures.

Visa dialogue

The issue: The ongoing EU-Russia visa dialogue examines the conditions for visa-free travel regime as a long-term perspective. Russia has repeatedly signalled that it seeks to move more swiftly to the introduction of a mutual visa-free travel regime.

EU objective/

Line to take: Welcome the exploratory work carried out in the dialogue on the basis of the procedure approved by the PPC of April 2007. Note the May 2010 JLS PPC conclusions inviting Senior Officials to explore how to move to a practical phase of the dialogue and take note of the results of the last Senior Officials meeting overseeing the dialogue held on 24 September 2010. Welcome Russia's intention to work on the basis of the Commission proposal to identify common steps towards visa liberalisation. In view of the EU-RF JLS PPC of 18-19 November 2010 work on the areas to be included in these common steps is currently being prepared. Underline the importance of security and migration policy aspects and of the effective implementation of Visa Facilitation/Readmission agreements as important prerequisites for further progress in the context of the visa dialogue. Emphasize the importance of practical progress, including on cumbersome registration requirements which EU citizens are facing in Russia and on providing easier access to long-stay visas for EU citizens.

Border Agreements

The issue: Russia has refused to ratify the border treaty with Estonia. Border agreements with Latvia and Lithuania have been ratified but the borders are not yet properly demarcated.

EU objective/

Line to take: Emphasise that the EU wants legal certainty of its external border and a stable basis for relations between its Member States and Russia. Encourage the Russian authorities to ratify the border agreement with Estonia as rapidly as possible, to maintain the momentum of ongoing work on demarcation with Lithuania and Latvia, and to undertake effective demarcation work at the earliest opportunity with Estonia.

Democracy, Human Rights and Rule of Law

The issue: There has been little improvement of the human rights situation in Russia. Human rights defenders and independent journalists continue to operate in a largely hostile environment with a number of prominent human rights defenders having been assassinated and lack of progress of the investigations into killings. There are also increasing reports of violence by law enforcement personnel and insurgents in the North Caucasus, no progress towards greater media pluralism, difficulties to hold public demonstrations, widespread torture and ill-treatment in places of detention and the armed forces, increased racism and racist crimes, xenophobia, religious intolerance and widespread homophobia, discrimination on the grounds of sexual orientation and the treatment of persons belonging to certain minorities. Russia tends to politicise the situation of persons belonging to Russian-speaking minorities and other human rights issues in the EU. Russia fails to fully comply with decisions of the European Court of Human Rights. Russia is the only CoE member state yet to ratify Protocol 6 of the European Convention on Human Rights on abolition of the death penalty. However, the enforcement of the death penalty has been practically banned by extending the moratorium on the implementation of the death penalty until ratification of Protocol 6 of the European Convention on Human Rights. Russia's recent ratification of Protocol 14 on reform of the European Court of Human Rights is a positive development, which could signal a new willingness of Russia to engage constructively on European Court of Human Rights decisions and reform.

EU objective: Uphold the international standards and values to which Russia is committed on democracy, the application of the rule of law and respect for human rights. Recall the values on which the EU/Russia strategic partnership is founded, including in the context of the New Agreement negotiations. Promote constructive discussion to improve the human rights situation. Defuse the politicisation of the situation of persons belonging to Russian-speaking minorities in the EU. Enhance consultations by alternating the venue between the EU and Russia, by encouraging involvement of Russian line Ministries, by monitoring follow up on concerns raised by the EU and by holding expert seminars to complement the consultations. Incorporate human rights issues throughout the EU's engagement with Russia.

Line to take: Emphasise that a vibrant democracy at all levels in Russia, the application of the rule of law, an independent judiciary and full respect for human rights, including a free and independent media, and a thriving civil society, are necessary to promote stability and prosperity. Note that the EU follows with concern the human rights situation in Russia. Underline that Russia should take urgent measures to ensure the protection of human rights defenders and to guarantee an independent and effective investigation into all attacks. Call on the Russian government to ensure the ratification of Protocol 6 of the European Convention on Human Rights and to fully comply with decisions of the European Court of Human Rights. Call on Russia to ensure respect for the freedom of assembly. Call on Russia to agree to the publication of the reports of the European Committee for the Prevention of Torture (CPT) and to implement its recommendations. Encourage Russia to accede to the Optional Protocol to the Convention against Torture. Call on Russia to fulfil its commitments under the Universal Periodic Review process and to allow for the visit of UN Special Procedures. Urge Russia to fight hate crimes effectively. Highlight that regular human rights consultations are an opportunity to discuss developments in Russia and the EU, but that the consultations would be improved by alternating venues and involving line ministries and other agencies involved in the day-to-day implementation of human rights commitments.

Chechnya/North Caucasus

The issue: There is a high number of reports of suicide bomb attacks and violent clashes between law enforcement personnel and insurgents in Chechnya. Violence has grown in Ingushetia, Dagestan, and the western part of the North Caucasus. There are continuing widespread reports of human rights abuses and reprisals against civilians in Chechnya. The ICRC had to suspend visits to conflict-related detainees as the concerned authorities did not respect the conditions of private interviews and access to and follow-up of all detainees. IDPs from Ingushetia who have returned to Chechnya often face secondary displacement and live in sub-standard conditions due to the extent of destruction. While there is a very significant reconstruction process taking place, true stabilisation is prevented by a climate of fear and impunity of human rights abusers. Radicalisation, insecurity and dissatisfaction have spread to Ingushetia and Dagestan with attacks on law-enforcement officials and politicians. Poor socio-economic conditions increase instability.

EU objective: A genuine political settlement of the conflict based on the support and confidence of the population and respecting Russia's territorial integrity, underpinned by the full respect of the rule of law, democratic principles, promotion of good governance and full respect of human rights. Prosecution of human rights abusers. Greater Russian openness to international assistance and scrutiny. Respect for ICRC mandate with regard to visits to prisoners. Full cooperation with the CPT and implementation of its recommendations.

Line to take: Express concern that stabilisation of the situation in Chechnya is not underpinned by the respect for the rule of law, human rights and democratic principles. Steps to improve the political process should accompany measures to address threats to security in Ingushetia and Dagestan. Attacks on human rights defenders and human rights abuses must be investigated and prosecuted in an independent and thorough manner. Victims of such abuses who seek legal redress, notably via the European Court of Human Rights, should be protected. Russia should cooperate fully with the European Committee for the Prevention of Torture (CPT) and implement its recommendations. It should also permit visits by the UN Special Rapporteurs on torture and on summary executions in full respect for their terms of reference. Express concern about denied access of ICRC delegates to people detained in relation with the conflict in contravention of the Geneva Convention. Recall that there should be no forced return of IDPs. Encourage the revitalisation of the work of the Committee established to investigate disappearances.

Reject terrorism and recognise Russia's right to prevent as well as combat terrorism, in full respect of human rights. Express wish to intensify co-operation with Russia on these issues, in compliance with human rights and asylum law, while tackling the underlying factors that may contribute to terrorism.

North Caucasus/delivery of Humanitarian Aid

The issue: Several NGOs have transferred their offices from Ingushetia to Chechnya. Access for UN staff is still difficult as federal authorities continue to impose an OMON escort system, which prevents proper monitoring and potentially endangers UN staff. Moreover, it prevents UNHCR from fulfilling its mandate since it hinders the registration and follow-up of individual Protection cases. The UN still has no permission to open offices in Chechnya. This remains a serious obstruction to the monitoring of projects by UN staff as well as donors. The security situation is now the main concern in the region.

EU objective: The delivery of humanitarian goods should not be obstructed and NGOs, the ICRC and the UN should be allowed to operate without hindrance and have free access to the beneficiaries of their assistance. UN agencies should be allowed to continue to travel to Chechnya without OMON escorts and to open offices in Grozny.

Line to take: Underline that Russia should facilitate the delivery of humanitarian aid, by lifting all unnecessary restrictions on access to Chechnya, in accordance with UN security standards.

The fight against terrorism

The issue: EU needs to cooperate with Russia with regard to fighting against terrorism and has to underline the need to ensure full respect for human rights and the rule of law.

EU objective/

Line to take: Emphasise that the EU wants effective, concrete and fruitful co-operation with Russia in the field of counter-terrorism, in full respect of the principles of human rights and rule of law. Note that the implementation of the provisions in the Common Spaces should remain the framework for cooperation.

Underline that the EU further desires that Russia achieves closer relations with Europol and Eurojust as well as practical co-operation in the fields of money laundering, terrorist financing, document security, cyber security and border management. EU and Russia should continue informing each other about developments in the critical infrastructure protection area.

Personal data protection - cooperation agreements with Europol and Eurojust

The issue: Pending ratification and effective implementation by Russia of the 1981 Council of Europe Convention on Personal Data Protection and the 2001 Additional Protocol. The application of adequate standards of data protection and independent supervision of the application of these standards is a precondition for a Eurojust-Russia cooperation agreement and Europol-Russia agreement on operational cooperation. Russian authorities appear to be convinced that Russian data protection provisions are in line with the 1981 Convention. After the Agreement on co-operation between the European Police Office and the Russian Federation was concluded in 2003, both partners expressed their interest in concluding an agreement on operational co-operation, which includes the transmission of personal data. Europol's Management Board (MB) has considered that Europol could negotiate a cooperation agreement providing for a specific data protection regime that addresses questions raised by Europol's Joint Supervisory Body (JSB). Taking into account concerns expressed by the JSB, the Managing Board authorized the Director of Europol to enter into negotiations for the conclusion of an operational agreement with the Russian Federation by the decision taken on its meeting on 19-20 May 2010. The negotiation process has started in October 2010.

EU objective/

Line to take: Encourage Russia to ratify and implement the 1981 CoE Convention and its 2001 Protocol. Support the negotiation and conclusion of cooperation agreements with Europol and Eurojust once adequate protection on personal data has been ensured. Note that adequate protection of personal data is not only a necessary precondition for Russia's enhanced cooperation with Europol and Eurojust, but also an important prerequisite for enhancing mutual trust between EU Member States and Russia.

Co-operation in criminal and civil matters

The issue: Member States have been confronted with numerous obstacles in practical cooperation between the judicial authorities in the fields of criminal and civil law. This is also due to the lack of ratification by Russia of several important Hague Conventions that provide for the judicial cooperation in, e.g. parental child abduction or parental responsibility cases.

EU objective/

Line to take: Encourage Russia's accession to several key international conventions (such as the Hague Conventions on child abduction, protection of children and maintenance; the CoE Civil Law Convention on corruption; the Second Additional Protocol to the CoE Convention on mutual legal assistance in criminal matters; the CoE Convention on cybercrime; and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions). Promote further work on effective implementation of the multilateral conventions that Russia has ratified. Express readiness to assist Russia in the provision of training to the relevant authorities on the implementation of the conventions.

Underline the importance of effective judicial co-operation by Russia, in full respect of international commitments, in particular in pending criminal investigations and cases at the courts of EU Member States, including the Litvinenko case.

IV. **DELETED**

Pages 23 through 27 : DELETED

V. COMMON SPACE OF RESEARCH AND EDUCATION, INCLUDING CULTURAL ASPECTS

The UNESCO Convention on the protection and promotion of the diversity of cultural expressions and European standards on media regulation

- The issue: Russia has yet to ratify the 2005 UNESCO Convention on the protection and promotion of the diversity of cultural expressions. This Convention, ratified by the European Community and 110 other countries so far, establishes a set of fundamental principles which are key to safeguard cultural diversity and promote cultural cooperation worldwide. As regards audiovisual services it would be desirable that Russia reiterates its commitment to promoting European standards on media regulation, notably those of the Council of Europe.
- EU objective: Seek ratification by Russia of the UNESCO Convention and approximation to European standards on media regulation.
- Line to take: Encourage Russia to ratify the UNESCO Convention so that the EU and Russia can advance cultural cooperation on the basis of a shared commitment to cultural diversity. It is essential that Russia is closely involved in the work of the UNESCO Convention and shows its commitment to promoting European standards on media regulation, notably those of the Council of Europe. Remind Russia to ensure the follow up of the commitments made during the third meeting of the EU-Russia joint working group (June 2008), aiming to foster convergence with European standards in the media policy area.

Culture

- The issue: Bilateral Cultural Centres Agreements ensure that Member States' cultural organisations can operate in Russia and offer a mechanism to develop an enhanced Russian cultural presence in the EU. Various Member States have been frustrated in their attempts to encourage Russia to finalise or implement agreements, sometimes for several years.
- EU objective: To encourage Russia to quickly finalise outstanding Cultural Centres Agreements without reference to wider issues, and to treat their negotiation as routine business. To pursue and finalise the discussions on the Culture Action Plan.

Line to take: An important part of the Cultural cooperation envisaged in the fourth common space will take place through the activities of EU Member State cultural institutes in Russia. These need to be able to operate on a firm administrative and legal footing in Russia. The EU therefore urges Russia quickly to agree outstanding Agreements. Encourage Russia to finalise the discussions on the culture action plan.

EU Framework Programme for Research and Technological Development

The issue: In July 2009 the EU welcomed Russian interest in participating in the 7th Framework Programme. The Council endorsed the Commission proposal that this association should be negotiated in the framework of the new EU-Russia Agreement.

EU objective: Negotiate the terms of Russia's association to the 7th Framework Programme within the overall negotiations for a new EU-Russia agreement.

Line to take: The EU is ready to actively engage in negotiations with Russia about the terms and mutual benefits of Russia's association to the Framework Programme. The best place for doing so is a dedicated group of experts from both sides, within the context of the overall negotiations for a new EU-Russia agreement.

International Science and Technology Center (ISTC)

The issue: President Medvedev signed a decree on 11 August 2010 stipulating that Russia is to withdraw from the International Science and Technology Center (ISTC) Agreement six months after official notification has been delivered to the other parties in accordance with the provisions of the ISTC Agreement. This will lead to the closure of the ISTC Moscow. The EU sent a note verbale requesting consultations before any formal notification is delivered. Similar requests have been put forward by the other international partners, in particular of the G8. To this date, no official notification has been delivered. Russia has recently expressed its intention to hold consultations with all partners. There is a need to clarify the future of the ISTC. Consultations between the EU and other G8 partners are important in this regard.

EU objective: The immediate objective of the EU is to obtain clarifications on the terms of Russia's withdrawal and to ensure the continuity of ongoing projects. On the basis of the clarifications obtained from Russia and in agreement with the other parties, the EU will decide on the available options.

Line to take: The EU needs clarifications on the terms of Russia's announced withdrawal from the ISTC Agreement. The EU looks forward to holding consultations with Russia and the other partners.