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**RUSSIAN FEDERATION – MEASURES CONCERNING
THE EXPORTATION OF WOOD PRODUCTS**

REQUEST FOR CONSULTATIONS BY THE EUROPEAN UNION

Revision

The following communication, dated 17 February 2022, from the delegation of the European Union to the delegation of the Russian Federation, is circulated to the Dispute Settlement Body in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request consultations with the Russian Federation pursuant to Articles 4 and 1.1, first sentence, of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU"), in conjunction with Article XXII:1 of the General Agreement on Tariffs and Trade 1994 ("GATT 1994"), and Article 1.1, second sentence, of the DSU with regard to measures adopted by the Russian Federation restricting the exportation of wood products. Those measures adversely affect exports of wood products from the Russian Federation to the European Union. By covering further measures, this request replaces the European Union's request for consultations with the Russian Federation dated 20 January 2022 and circulated to WTO Members on 24 January 2022, on the same broad subject, namely measures adopted by the Russian Federation restricting the exportation of wood products.¹

1. The measures at issue

The Russian Federation has adopted several measures which form part of a broader policy aiming to ban or restrict the exportation of certain wood products, in line with the instructions issued publicly to the Russian Government by the President of the Russian Federation.²

The measures at issue can be summarised as follows.

a. Termination of tariff-rate quotas on exports of wood products

Under its Protocol of Accession (WT/MIN(11)/24, WT/L/839), the Russian Federation undertook tariff concessions also with respect to export duties. These export duty bindings are recorded in Part V of the Russian Federation's Schedule of Concessions and Commitments on Goods ("Schedule"), which was also annexed to the GATT 1994. As part of these tariff concessions, the Russian Federation undertook the commitment to apply an export duty of no more than 13% and 15% *ad valorem*, respectively, to certain quantities of certain rough wood exports, that is tariff-rate quotas ("TRQs"),

¹ WT/DS608/1, G/L/1424.

² On 30 September 2020, the President of the Russian Federation instructed the Russian Government to prepare a complete ban on exports of certain unprocessed coniferous and other round-wood, starting from 1 January 2022. President Putin is quoted by the Russian News Agency as having stated: "I request imposing complete ban on shipment of unprocessed or roughly processed conifer and valuable hardwood out of Russia starting January 1, 2022," and as having tasked the Government with "preparing the legislative base to solve the task of preventing uncontrolled outflow of unprocessed timber." See TASS, Russian News Agency, Putin instructs government to stop uncontrolled export of unprocessed timber, 30 September 2020, <https://tass.com/economy/1206747>.

with also scheduled allocations of quantities for exportation to the European Union. These TRQs for exportation are specified in the Annex to Part V of the Russian Federation's Schedule as follows:

Annex to Part V

Aggregate of HS 4403 20 110 and 4403 20 190

Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared of spruce of the species 'Picea abies Karst' or silver fir (Abies alba Mill)

Global volume of TRQ, thousand cubic metre	In-quota duty	Out-of-quota duty
6 246, 5 Including: EU – 5 960,6; others – 285,9	13%	To be established in accordance with the tariff applied by the Russian Federation

Aggregate of HS 4403 20 310 and 4403 20 390

Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared of pine of the species "Pinus sylvestris L."

Global volume of TRQ, thousand cubic metre	In-quota duty	Out-of-quota duty
16 038,2 Including: EU – 3 645,9; others – 12 392,3	15%	To be established in accordance with the tariff applied by the Russian Federation

The Russian Federation implemented these concessions by introducing corresponding TRQ quantities and their allocation into its legislation through Government Resolution³ No. 779 of 30 July 2012 (Government Resolution 779)⁴ and in-quota tariff rates of 13% or 15%, respectively, through Government Resolution No. 754 of 30 August 2013 (Government Resolution 754)⁵ for an indefinite period of time. Government Resolution 779 defined the product scope for these TRQs as follows, with reference to the Eurasian Economic Union (EAEU) commodity nomenclature:

- EAEU TN VED⁶ codes 4403 23 110 0, 4403 23 190 0, and 4403 24 100 0) European spruce or European silver fir;
- EAEU TN VED codes 4403 21 110 0, 4403 21 190 0 and 4403 22 100 0) Scotch pine or 'common spruce and pine'.

Government Resolution 779 further provided that "the tariff quota distribution shall be performed as provided by the respective international treaty of the Russian Federation".⁷ The export volumes

³ Although "regulation" might be suitable, "resolution" is the term used as translation of the Russian term *postanovleniye* in this request for consultations, as this corresponds best to the practice of the Russian Federation's official legislative websites, as well as, with significant variation, in WTO documents.

⁴ Resolution of the Government No. 779 of 30 July 2012 On the tariff quotas for certain types of coniferous timber exported from the territory of the Russian Federation and the Customs Union member states.

⁵ Resolution of the Government No. 754 of 30 August 2013 On the approval of export customs duty rates for goods exported from the Russian Federation outside the member states of the agreement on the Customs Union, and on the abrogation of several acts of the Government of the Russian Federation.

⁶ TN VED stands for *tovarnaya nomenklatura vneshneekonomicheskoy deyatel'nosti*, that is: commodity nomenclature of foreign economic activity.

⁷ Paragraph 2 of the Rules of distribution between foreign trade operators of the tariff quotas for European spruce, European silver fir or Scotch pine exported from the territory of the Russian Federation and the territories of the member states of the Customs Union to the European Union (approved through Government Resolution No. 779 of 30 July 2012).

in cubic meters covered by the TRQs indicated in Government Resolution 779 are the same as the volumes of TRQs provided in the Annex to Part V of the Russian Federation's Schedule.

The Russian Federation has stopped applying these TRQs on certain rough wood products since 1 January 2022. Instead, the Russian Federation is now levying on the exports in question export duties well above the aforementioned levels bound in its Schedule.

It appears that Government Resolution No. 396 of 18 March 2021 (Government Resolution 396)⁸ repealed, as of 1 January 2022, Government Resolution 779, thereby terminating the TRQs in question. A significant part of these TRQs used to be, and had to be, allocated to exports to the European Union. Following the termination of these TRQs, the export duties applied by the Russian Federation on the products at stake appear to be "80% of customs value, but not less than 55.2 euro per 1 cubic meter", according to the out-of-quota tariff rates established by the Russian Federation. These rate appeared, inter alia, in Government Resolution 754 and more recently in Government Resolution No. 2068 of 27 November 2021 (Government Resolution 2068).⁹

This request also covers any amendment, supplement, replacement, renewal, extension, implementing measure or other measures related to the measure by which the Russian Federation has stopped applying TRQs, including any adjustments as to its form, level, product scope or otherwise.

b. Other increases in export duties on wood products

As part of its tariff concessions with respect to export duties, recorded in Part V of its Schedule, the Russian Federation also undertook, in its Protocol of Accession (WT/MIN(11)/24, WT/L/839), inter alia the commitments:

- not to apply any export duty (above zero),
- not to apply an export duty of more than 10% *ad valorem* but not less than 10 EUR per cubic metre, or
- not to apply an export duty of more than 10% *ad valorem*, but not less than 12 EUR per cubic metre,

respectively, depending on the wood products in question. These commitments for exportation are specified in Part V of the Schedule as follows:

Tariff code	Description	Rate of duty after the implementation period
4407 10 150 0	- - sanded; end- jointed, whether or not planed or sanded	0
4407 10 310 0	- - - - spruce of the species 'Picea abies Karst.' or silver fir (Abies alba Mill.)	0
4407 10 330 0	- - - - pine of the species "Pinus sylvestris L."	0
4407 10 380 0	- - - - other	0
4407 10 910 0	- - - - spruce of the species 'Picea abies Karst.' or silver fir (Abies alba Mill.)	0
4407 10 930 0	- - - - pine of the species 'Pinus sylvestris L.'	0
4407 10 980 0	- - - - other	0
4407 91 150 0	- - - sanded, end- jointed, whether or not planed or sanded	0
4407 91 310 0	- - - - blocks, strips and friezes for parquet or wood block flooring, not assembled	0
4407 91 390 0	- - - - other	0
4407 91 900 0	- - - - other	0
4407 92 000 0	- - of beech (Fagus spp.)	10. but not less than 10 € / 1m3
4407 93 100 0	- - - planed; end- jointed, whether or not planed or sanded	0

⁸ Resolution of the Government No. 396 of 18 March 2021 On amendments to several acts of the Government of the Russian Federation and the revocation of several acts and individual provisions of several acts of the Government of the Russian Federation.

⁹ Resolution of the Government of the Russian Federation No. 2068 of 27 November 2021 On the rates of export customs duties on goods exported from the Russian Federation outside the customs territory of the Eurasian Economic Union.

Tariff code	Description	Rate of duty after the implementation period
4407 93 500 0	- - - - sanded	0
4407 93 900 0	- - - - other	0
4407 94 100 0	- - - planed; end- jointed, whether or not planed or sanded	0
4407 94 500 0	- - - - sanded	0
4407 94 900 0	- - - - other	0
4407 95 100 0	- - - planed; end- jointed, whether or not planed or sanded	10. but not less than 12 € / 1m ³
4407 95 500 0	- - - - sanded	10. but not less than 12 € / 1m ³
4407 95 900 0	- - - - other	10. but not less than 12 € / 1m ³

However, the Russian Federation introduced export duties on wood products mentioned above in excess of those provided for in its Schedule for wood products classified in the Schedule under tariff heading 4407.

In particular, the products subject to those export duties seem to be classified in current EAEU tariff lines 440711 930 0, 440711 980 0, 440712 910 0, 440712 980 0, 440719 980, 4407 91 900 0, 440792 000 0 and 440795 990 0 as reflected in the table below. It appears that the Russian Federation imposed these export duties inter alia through Government Resolution No. 737 of 15 May 2021 (Government Resolution 737),¹⁰ whereby these export duties applied from 1 July to 31 December 2021:

High humidity wood out of the categories below	WTO bound export duty rate	Export duty rates according to Government Resolution 737
440711 930 0, 440711 980 0	0	10 %, but not less than 13 EUR / m ³
440712 910 0 440712 980 0	0	10 %, but not less than 13 EUR / m ³
440719 980 0	0	10 %, but not less than 13 EUR / m ³
440791 900 0	0	10 %, but not less than 15 EUR / m ³
440792 000 0	10%, but not less than 10 EUR/m ³	10%, but not less than 50 EUR / m ³
440795 990 0	10%, but not less than 12 EUR/ m ³	10%, but not less than 50 EUR / m ³

The Russian Federation is also currently applying export duties on the wood products mentioned above in excess of those provided for in its Schedule for wood products classified in the Schedule under tariff heading 4407.

It appears that the Russian Federation imposes these export duties inter alia through Government Resolution 2068, starting from 2 January 2022. The products subject to these export duties seem to be classified in current EAEU tariff lines starting on the six digits 4407 11, 4407 12, 4407 13, 4407 14, 4407 19, 4407 91, 4407 92 and 4407 95 as reflected in the table below.

Subheadings	WTO bound export duty rate	Export duty rates according to Government Resolution 2068
Other coniferous 440711-440719	0	For some: 200 EUR / m ³ , For others: 10%, but not less than 13 EUR / m ³

¹⁰ Resolution of the Government of the Russian Federation 737/2021 of 15 May 2021 On amendments to the rates of export customs duties on goods exported from the Russian Federation outside the member states of the agreement on the Customs Union.

440791	0	For some: 370 EUR / m ³ , For others: 10%, but not less than 15 EUR / m ³
440792	10%, but not less than 10 EUR / m ³	For some: 250 EUR/m ³ , For others: 10%, but not less than 50 EUR / m ³
440795	10%, but not less than 12 EUR / m ³	For some: 300 EUR/m ³ , For others: 10%, but not less than 50 EUR/ m ³

Moreover, part two of Government Resolution 2068 appears to stipulate such export duties, in excess of rates provided for in the Schedule, on high-humidity sawn wood classified in certain EAEU tariff lines starting on the six digits (i.e. within the subheadings) 4407 11, 4407 12, 4407 13, 4407 14, 4407 19, 4407 91, 4407 92, 4407 95. The export duties appear to be of 10 % *ad valorem*, but not less than 13 EUR/m³ in most cases, but not less than 10 EUR/m³ in one case (4407 92 000 0), not less than 15 EUR/m³ in another case (4407 91 900 0), and not less than 50 EUR/m³ in two cases (a part of each 4407 92 000 0 and 4407 95 990 0).

While the Russian Federation's Schedule contains tariff bindings listed for tariff lines starting on the six digits 4407 10, Russia has for the same products in the currently applicable EAEU commodity nomenclature of applied tariffs, instead, tariff lines starting on the six digits 4407 11, 4407 12, 4407 13, 4407 14 and 4407 19, following the introduction of the Harmonised System HS2017. As a consequence, the Russian Federation's export duty commitments on products described within tariff subheading 4407 10 in its Schedule apply to products nowadays described in tariff lines falling within tariff subheadings 4407 11 to 4407 19 in the EAEU commodity nomenclature of applied tariffs.

This request also covers any amendment, supplement, replacement, renewal, extension, implementing measure or other measures related to the measure by which the Russian Federation has imposed the above export duties, including any adjustments as to their form, level, product scope or otherwise.

c. Reductions of the number of border crossing points for the exportation of wood products

i. First reduction

The Russian Federation has significantly reduced the number of border crossing points permitted for the exportation of certain wood products falling under the following EAEU tariff headings, from originally 98 road, railway, maritime and inland waterway border crossing points, by closing a significant number of these border crossing points for such exportation. Many of these closed border crossing points are situated on the land border with the European Union or are maritime or inland waterway crossing points of relevance for such exports to the European Union:

- 4401
- 4403
- 4404
- 4406
- 4407.

The Russian Federation has put into effect this measure through, *inter alia*, Government Resolution No. 1599 of 22 September 2021,¹¹ amending Government Resolution No. 521 of 15 July 2010.¹² The restrictions appear not to apply to exports to other member states of the EAEU.

ii. Second reduction

The Russian Federation has further reduced the number of border crossing points permitted for the exportation of certain wood products falling under the following EAEU tariff subheadings or lines, which originally were 98 road, railway, maritime and inland waterway border crossing points, of which 20 road and 12 railway crossing points on the land border with the European Union,¹² to only two railway border crossing points, of which one with the European Union and one with North Korea:

- 4403 11 000,
- 4403 12 000 1,
- 4403 12 000 2,
- 4403 12 000 3,
- 4403 21,
- 4403 22,
- 4403 23,
- 4403 24,
- 4403 25,
- 4403 26 000 0,
- 4403 91,
- 4403 93,
- 4403 94 000 0, and
- 4403 99 000 1.

The Russian Federation has put into effect this measure through, *inter alia*, Government Resolution No. 1225 of 20 July 2021 On the designation of the points for crossing through the state border of the Russian Federation for the exportation from the territory of the Russian Federation of goods classified in commodity code 4403 of the common commodity nomenclature of foreign economic activity of the Eurasian Economic Union, and on amendments to Government Resolution No. 521 of the Government of the Russian Federation of 15 July 2010. The restrictions appear not to apply to exports to other member states of the EAEU.

This request also covers any schedule or annex to the measures by which the Russian Federation has reduced the number of land border crossing points, as well as any amendment, supplement, replacement, renewal, extension, implementing measure or other related measures, including any adjustments as to its form, level, product scope or otherwise.

d. Introduction of export restrictions or prohibitions on certain wood products by the Eurasian Economic Union

Under its Protocol of Accession (WT/MIN(11)/24, WT/L/839), the Russian Federation undertook commitments as regards export restrictions also with respect to measures adopted by the competent bodies of the Customs Union, which was succeeded by the EAEU. EAEU decisions are binding upon the member states of the EAEU, among which the Russian Federation.

The Eurasian Economic Commission introduced quantitative restrictions for the exportation of certain wood products from its five member states (Russian Federation, Belarus, Kazakhstan, Kyrgyzstan and Armenia) to third countries. The EAEU has also set export quotas for these products and each of the five member states to be zero. This means that the exportation from the Russian Federation of certain wood products falling under EAEU tariff headings 4401, 4403 and 4407 is prohibited. That prohibition appears to apply *inter alia* with respect to the following EAEU tariff lines: 4401 11 000 1, 4401 11 000 9, 4401 12 000 1, 4401 12 000 9, 4403 11 000 1, 4403 11 000 9, 4403 12 000 1,

¹¹ Resolution of the Government of the Russian Federation No. 1599 of 22 September 2021 On amendments to the Resolution of the Government of the Russian Federation of 15 July 2010 No. 521.

¹² See Resolution of the Government of the Russian Federation of 15 July 2010 No. 521 On the designation of the points for crossing through the state border of the Russian Federation for the exportation of certain types of goods from the territory of the Russian Federation.

4403 12 000 2, 4403 12 000 3, 4403 21 120 0, 4403 21 180 0, 4403 21 920 0, 4403 21 980 0, 4403 22 200 0, 4403 22 800 0, 4403 23 120 0, 4403 23 180 0, 4403 23 920 0, 4403 23 980 0, 4403 24 200 0, 4403 24 800 0, 4403 25 100 0, 4403 25 900 0, 4403 26 000 0, 4403 91 100 0, 4403 91 900 0, 4403 93 200 0, 4403 93 800 0, 4403 94 000 0, 4403 99 000 1, 4407 11 940 5, 4407 11 990 5, 4407 12 920 5, 4407 12 990 5, 4407 13 000 4, 4407 14 000 4, 4407 19 970 5, 4407 91 900 5, 4407 92 000 4, and 4407 95 990 5.

The Eurasian Economic Union has put into effect these measures through, *inter alia*, Commission Decision No. 194 of 28 December 2021¹³ amending Annex 2¹ to Commission Decision No. 30 of 21 April 2015.¹⁴ Russia is required to implement this Decision of the Eurasian Economic Commission which also states that it applies to exports from the Russian Federation from the date of entry into force of an implementing act.

This request also covers any schedule or annex to the measures by which the Russian Federation or the EAEU has introduced or applied the above export restrictions, as well as any amendment, supplement, replacement, renewal, extension, implementing measure or other related measures, including any adjustments as to its form, level, product scope or otherwise.

2. Legal basis for the complaint in respect of the measures at issue

The measures described above appear to be inconsistent with the Russian Federation's obligations under the covered agreements, in particular:

a. Termination of TRQs on exports of certain wood products

The termination of TRQs on exports of certain wood products appears to be inconsistent with the obligations of the Russian Federation under the covered agreements and, in particular, with:

- Article II:1(a) of the GATT 1994, because, through this measure, the Russian Federation accords to the commerce of the European Union in certain wood products treatment less favourable than that provided for in the appropriate part of the appropriate Schedule annexed to the GATT 1994, namely that provided for in Part V and the Annex to Part V of the Russian Federation's Schedule.
- Paragraph 2, second sentence, of the Protocol on the Accession of the Russian Federation (WT/MIN(11)/24, WT/L/839) in conjunction with paragraphs 638 and 1450 of the Report of the Working Party on the accession of the Russian Federation to the WTO (WT/ACC/RUS/70, WT/MIN(11)/2), because the Russian Federation does not exempt products described in Part V and the Annex to Part V of the Schedule, namely certain wood products under tariff heading 4403, from export duties in excess of those set-forth and provided in Part V and the Annex to Part V of its Schedule; because the Russian Federation does not implement its tariff concessions and commitments contained in Part V and the Annex to Part V of the Schedule; and because the Russian Federation does not apply export duties in conformity with the WTO Agreement.

b. Other increase in export duties on certain wood products

The introduction or increase of export duties on certain wood products appears to be inconsistent with the obligations of the Russian Federation under the covered agreements and, in particular, with:

- Article II:1(a) of the GATT 1994, because, through this measure, the Russian Federation accords to the commerce of the European Union in certain wood products treatment less favourable than that provided for in the appropriate part of the appropriate Schedule

¹³ Decision of the Board of the Eurasian Economic Commission No. 194 of 28 December 2021 On amendments to section 2^{1.1} of the list of goods subject to quantitative export and import restrictions, and on the introduction of temporary quantitative export restrictions in relation to certain types of timber products.

¹⁴ Decision of the Board of the Eurasian Economic Commission No. 30 of 21 April 2015 On Measures of Non-Tariff Regulation.

annexed to the GATT 1994, namely that provided for in Part V of the Russian Federation's Schedule.

- Paragraph 2, second sentence, of the Protocol on the Accession of the Russian Federation (WT/MIN(11)/24, WT/L/839) in conjunction with paragraphs 638 and 1450 of the Report of the Working Party on the accession of the Russian Federation to the WTO (WT/ACC/RUS/70, WT/MIN(11)/2), because the Russian Federation applies export duties on certain products described in Part V, namely certain wood products under tariff heading 4407, in excess of the export duties set-forth and provided in Part V of its Schedule; because the Russian Federation does not implement its tariff concessions and commitments contained in Part V of the Schedule; and because the Russian Federation does not apply export duties in conformity with the WTO Agreement.

c. Reduction of the number of border crossing points for the exportation of wood products

The reductions of the number of border crossing points for the exportation of certain wood products appear to be inconsistent with the obligations of the Russian Federation under the covered agreements and, in particular, with:

- Article XI:1 of the GATT 1994, because, through this measure, the Russian Federation has instituted and is maintaining restrictions other than duties, taxes or other charges on the exportation of certain wood products destined for the territory of the European Union and other Members.
- Article XIII:1 of the GATT 1994, because, through this measure, the Russian Federation applies restrictions on the exportation of certain wood products destined for the territory of the European Union and other Members, while the Russian Federation has not similarly restricted the exportation of the like products to all third countries.
- Article I:1 of the GATT 1994, because, with respect to rules and formalities in connection with exportation, the Russian Federation fails to accord an advantage, favour, privilege or immunity granted by the Russian Federation to products destined for another country immediately and unconditionally to the like products destined for the territories of the European Union and other Members.
- Paragraph 2, second sentence, of the Protocol on the Accession of the Russian Federation (WT/MIN(11)/24, WT/L/839) in conjunction with paragraphs 668 and 1450 of the Report of the Working Party on the accession of the Russian Federation to the WTO (WT/ACC/RUS/70, WT/MIN(11)/2), because the Russian Federation applies to certain wood products quantitative restrictions on exports or restrictions on the sale for export or measures having equivalent effect that cannot be justified under the provisions of the WTO Agreement.

d. Introduction of export restrictions on certain wood products by the EAEU

The introduction by the EAEU of zero-quantity export quotas for the exportation, including from the Russian Federation, of certain wood products appears to be inconsistent with the obligations of the Russian Federation under the covered agreements and, in particular:

- Article XI:1 of the GATT 1994, because the Russian Federation has instituted and is maintaining prohibitions or restrictions other than duties, taxes or other charges, made effective through quotas, on the exportation of certain wood products destined for the territory of the European Union and other Members.
- Article XIII:1 of the GATT 1994, because the Russian Federation applies restrictions or prohibitions on the exportation of certain wood products destined for the territory of the European Union and other Members, while the Russian Federation has not similarly restricted the exportation of the like products to all third countries.
- Article I:1 of the GATT 1994, because with respect to rules and formalities in connection with exportation, the Russian Federation fails to accord an advantage, favour, privilege or

immunity granted by the Russian Federation to products destined for another country immediately and unconditionally to the like products destined for the territories of the European Union and other Members.

- Paragraph 2, second sentence, of the Protocol on the Accession of the Russian Federation (WT/MIN(11)/24, WT/L/839) in conjunction with paragraphs 1449 and 1450 of the Report of the Working Party on the accession of the Russian Federation to the WTO (WT/ACC/RUS/70, WT/MIN(11)/2), because the Russian Federation is not observing the provisions of the WTO Agreement in its participation in preferential trade agreements.
- Paragraph 2, second sentence, of the Protocol on the Accession of the Russian Federation (WT/MIN(11)/24, WT/L/839) in conjunction with paragraphs 668 and 1450 of the Report of the Working Party on the accession of the Russian Federation to the WTO (WT/ACC/RUS/70, WT/MIN(11)/2), because the competent bodies of the Customs Union as well as the Russian Federation have introduced and apply quantitative restrictions on exports or restrictions on the sale for export of certain wood products, such as quotas or bans or measures having equivalent effect that cannot be justified under the provisions of the WTO Agreement.

The above measures of the Russian Federation appear to nullify or impair the benefits accruing to the European Union directly or indirectly under the GATT 1994.

The European Union reserves the right to address additional measures and claims, including under other provisions of the covered agreements, regarding the above matters during the course of the consultations in light of the information that the Russian Federation may provide. The European Union looks forward to receiving the Russian Federation's reply to this request and expresses its readiness to consider a mutually convenient format and date for the consultations.
