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**RUSSIA – ANTI-DUMPING DUTIES ON LIGHT COMMERCIAL VEHICLES
FROM GERMANY AND ITALY**

REQUEST FOR THE ESTABLISHMENT OF A PANEL BY THE EUROPEAN UNION

The following communication, dated 15 September 2014, from the delegation of the European Union to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

On 21 May 2014, the European Union requested consultations with the Government of the Russian Federation ("Russia") pursuant to Articles 1 and 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), Article XXIII:1 of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994"), and Articles 17.2 and 17.3 of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* ("AD Agreement") with respect to the levy of anti-dumping duties on light commercial vehicles ("LCVs") from Germany and Italy by Russia pursuant to Decision No. 113 of 14 May 2013 of the College of the Eurasian Economic Commission ("EAEC"), as set forth therein, including any and all annexes, notices and reports of the Department for the Protection of the Internal Market of the EAEC, and any amendments thereof.¹

The European Union held consultations with Russia on 18 June 2014. These consultations did not resolve the dispute.

The European Union considers that the measures at issue are inconsistent with Russia's obligations under the following provisions of the WTO Agreements:

1. Articles 3.1, 3.2, 3.4 and 3.5 of the AD Agreement, because, by selecting non-consecutive periods of non-equal duration for the examination of the trends for the whole domestic industry, Russia's injury determination was not based on an objective examination of positive evidence.
2. Articles 3.1 and 3.2 of the AD Agreement, because Russia failed to consider whether there has been a significant increase in dumped imports for the whole investigation period based on an objective examination of positive evidence; and because Russia failed to demonstrate based on an objective examination of positive evidence that the effect of the allegedly dumped imports was to prevent domestic price increases, which otherwise would have occurred, to a significant degree.
3. Articles 3.1 and 3.4 of the AD Agreement, because Russia failed to conduct an objective examination, based on positive evidence, of the relevant economic factors and indices having a bearing on the state of the industry, and therefore improperly found that the domestic industry suffered material injury.
4. Articles 3.1 and 3.5 of the AD Agreement, because Russia failed to conduct an objective examination, based on positive evidence, of the causal relationship between the imports under investigation and the alleged injury to the domestic industry. Russia also failed to conduct an objective examination, based on positive evidence, of factors other than the imports under

¹ WT/DS479/1.

investigation which have been injuring the domestic industry, and therefore improperly attributed the injuries caused by these other factors to the imports under investigation.

5. Article 3.1 and Article 4.1 of the AD Agreement, because Russia incorrectly defined the domestic industry and as a result failed to conduct an objective examination, based on positive evidence, of the facts with respect to the domestic industry producing the subject products.

6. Article 6.5 of the AD Agreement, because Russia treated as confidential, without any good cause shown, statistical information obtained from the Customs of the Russian Federation, the Republic of Kazakhstan and the Republic of Belarus, and information supplied by the domestic producers in the written application, including the annexes thereof, submissions, the questionnaire responses, and amendments thereof.

7. Article 6.5.1 of the AD Agreement, because Russia failed to require the domestic producers to furnish non-confidential summaries of their application, submissions, questionnaire responses, and amendments thereof, and in any event those non-confidential summaries, when submitted, failed to provide sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence, including indexes that show meaningful trends.

8. Article 6.9 of the AD Agreement, because Russia failed to inform the interested parties of the essential facts under consideration which form the basis of the decision to impose anti-dumping measures, including the essential facts underlying the determinations of the existence of dumping and the calculation of the margins of dumping and the determination of injury.

9. Articles 12.2 and 12.2.2 of the AD Agreement, because Russia failed to provide in sufficient detail the findings and conclusions reached on all issues of fact and law considered material by the investigating authorities, as well as all relevant information on the matters of fact and law and reasons which have led to the imposition of final measures. In particular, Russia failed to:

- a. provide sufficient detail on the calculation of the dumping margin for Germany;
- b. provide the source of the information concerning import volumes and values;
- c. provide the methodologies used to make the findings concerning import volumes and values, domestic sales values, costs, profit; and
- d. provide complete and meaningful indexes of the domestic industry's injury factors.

10. Russia's anti-dumping measures on LCVs from the Germany and Italy further are inconsistent with Articles 1 and 18.4 of the AD Agreement and Article VI of the GATT 1994,² also as a consequence of the breaches of the AD Agreement described above.

Russia's measures, therefore, nullify or impair benefits accruing to the European Union, directly or indirectly, under the covered agreements.

Accordingly, the European Union respectfully requests that, pursuant to Article XXIII of the GATT 1994, Articles 4.7 and 6 of the DSU and Article 17.4 of the AD Agreement, the Dispute Settlement Body establish a panel to examine this matter, with the standard terms of reference as set out in Article 7.1 of the DSU.

The European Union asks that this request be placed on the agenda for the meeting of the Dispute Settlement Body to be held on 26 September 2014.

² Viz. Protocol on the Accession of the Russian Federation to the World Trade Organization (WT/MIN(11)/24, WT/L/839) dated 17 December 2011, para. 2 and Working Party on the Accession of the Russian Federation - Report of the Working Party on the Accession of the Russian Federation to the World Trade Organization (WT/ACC/RUS/70, WT/MIN(11)/2), dated 17 November 2011, para 620.