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Committee on Import Licensing

Original: English

## RUSSIAN FEDERATION IMPORT LICENSING PROCEDURES<sup>1</sup>

### FOLLOW-UP QUESTIONS FROM CANADA, THE EUROPEAN UNION, JAPAN, AND THE UNITED STATES

The following communication, dated 4 March 2014, is being circulated at the request of the delegations of Canada, the European Union, Japan and the United States.

1. In March 2013, we submitted questions to the Secretariat and the Russian Federation on its notification to this Committee (G/LIC/N/1/RUS/1). To date, we have received no answer to our questions in G/LIC/Q/RUS/1. We call the Russian Federation's attention to these questions, and we would like to know when the government will submit its written response.
2. We are disappointed that the Russian Federation did not attend the last ILC meeting, on 4 October 2013. We hope to see Russia at the upcoming April 2014 meeting so we can engage with the Russian government on the import licensing issues of concern.
3. As we have noted on a number of occasions, we remain troubled that the Russian Federation has failed to respond to the Questionnaire on Import Licensing Procedures under Article 7.3 of the Agreement, which was due on 22 November 2012, 90 days after accession. The one-year anniversary of Russia's WTO accession has long passed, and we still have not seen this document. Meanwhile, 30 September was the date for all WTO Members to submit their Article 7.3 Questionnaire responses to the Committee. The Russian Federation has also missed this deadline. When and how will Russia address this lack of transparency and provide the required notifications?
4. We noted that there are a number of other laws and regulations regarding the government's import licensing procedures, including those which Russia implements as part of the Customs Union with Kazakhstan and Belarus, that do not appear to have been notified. We are deeply troubled by this apparent lack of transparency. When will Russia provide these requested documents to the Import Licensing Committee—preferably in English—in accordance with Article 1.4 of the Import Licensing Procedures Agreement?
5. In addition to requesting full transparency with respect to Russia's legal regime on import licensing as contained in our written questions (G/LIC/Q/RUS/1), the United States subsequently raised the issue of a specific licensing regime that was apparently imposed on 23 August 2012, after Russia became a WTO Member. We called to the Committee's (and Russia's) attention the Eurasian Economic Commission's (EEC) issuance of Decision No. 143: "Measures to protect the economic interests of producers of stainless steel pipes in the Customs Union," establishing an import licensing regime to regulate a quota on certain pipe products. We have seen no notification to the Committee of import licenses to administer any such quotas. As we noted in April 2013, we are concerned that this licensing programme raises questions under Article 3 of the Import Licensing Procedures Agreement and we are further concerned that the quotas raise questions with respect to the GATT 1994. We again call on the Russian Federation to notify properly the EEC Decision No. 143 to the ILC, and to provide copies of the Decision, preferably in English, to the Secretariat at the same time, in accordance with the Agreement on Import Licensing Procedures.

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<sup>1</sup> See Understanding on procedures for the Review of Notifications (G/LIC/4).

6. In sum, in the interests of transparency, we request that the Russian Federation review its import licensing regime, notify all required information regarding its import licensing requirements, and provide translated copies of government rules, regulations, etc. to the Secretariat.

7. We also have questions about Russia's import licensing regime for products with cryptographic capabilities. On 15 May 2013, the EEC amended the regulations governing the import licensing regime for products with cryptographic capabilities. We have not seen any notification to the WTO of these amendments. Moreover, notwithstanding these amendments, it is not clear that the EEC regulations establishing the import licensing procedures for products with cryptographic capabilities accurately reflect Russia's WTO commitments in this regard. Specifically, the definition of "mass market goods" contained in Annex 1 of the regulations differs in significant ways from the definition of "mass market goods" contained in Table 29 of Russia's Working Party Report. We do not agree with Russia's divergence from the Working Party Report language and have raised these concerns directly with Russia. Please advise the Import Licensing Committee when Russia plans to revert to the agreed upon language in the Working Party Report. In addition, please describe the steps Russia is taking to address our concerns regarding its import licensing regime for products with cryptographic capabilities.

8. Russian Federation government sources have acknowledged that the average processing time for an import license (including both the "permit" from the FSB and the license from the Ministry of Industry and Trade) is 75 working days. Article 3(5)(f) of the Import Licensing Procedures Agreement provides that applications should be processed in not more than 60 days. Please describe for the Committee the steps that the Russian Federation is taking to reduce the processing time of these import license applications.

9. Finally, on 15 October 2013, the Eurasian Economic Commission issued Decision No. 223 imposing quotas on combine harvesters imported into the Russian Federation (as well as into Belarus and Kazakhstan). Annex 2 of that Decision describes the steps importers must take to obtain an import license for a share of the quota volume as well as the methodology for allocating those volumes. Article 5.1 of the Agreement on Import Licensing Procedures states that "Members which institute licensing procedures or changes in these procedures shall notify the Committee of such within 60 days of publication". It appears that the Russian Federation has not submitted a notification to this Committee of the import licensing regime in place for subject combine harvesters. Therefore, we call on the Russian Federation to properly notify EEC Decision No. 223 and to provide copies of the Decision to the Secretariat at the same time, in accordance with the Agreement on Import Licensing Procedures. We also understand that the Russian Federation intends to publish revised quota distribution rules by 1 March. We trust that the Russian Federation will promptly notify this revision as well.

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