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Council for Trade in Services  
Council for Trade in Goods

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## COMMUNICATION FROM THE RUSSIAN FEDERATION

### CERTAIN TRADE RESTRICTIVE MEASURES ADOPTED BY CANADA

The following communication, dated 28 May 2014, from the delegation of the Russian Federation, is being circulated to the Members of the Council for Trade in Services and the Council for Trade in Goods.

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1. The Russian Federation would like to raise its concerns in respect of Special Economic Measures (Russia) Regulation (P.C. 2014-282) and Special Economic Measures (Russia) Permit Authorization Order (P.C. 2014-283) adopted by Canada on 17 March 2014 and subsequent implementing regulations, in particular those adopted on 19 and 21 March 2014, 28 April 2014, 4 and 12 May 2014 (hereinafter referred to "Special Economic Measures Regulations").

2. In accordance with the Special Economic Measures Regulations it is prohibited for any person in Canada and any Canadian outside Canada to:

- a. deal in any property, wherever situated, held by or on behalf of a designated person;
- b. enter into or facilitate, directly or indirectly, any transaction related to a dealing referred to in paragraph a;
- c. provide any financial or other related service in respect of a dealing referred to in paragraph a;
- d. make any goods, wherever situated, available to a designated person; or
- e. provide any financial or related service to or for the benefit of a designated person.

3. The Russian Federation would like to draw the attention of Canada to the General Agreement on Trade in Services (GATS) and the Schedule of Specific Commitments of Canada. Such specific commitments were undertaken by Canada in a vast number of sectors and preclude Canada from taking actions that would undermine the rights of the Russian services suppliers operating within Canada or engaged in trade in services with counterparts from Canada, in particular, in the manner provided for in the Special Economic Measures Regulations.

4. In accordance with the Special Economic Measures Regulations prohibition of transactions is applied to any person of the Russian Federation operating in any sector of the Russian economy. The measure consequently affects Russian services suppliers in *a priori* all sectors of the economy. The measures provided for in the Special Economic Measures Regulations are incompatible with the obligations of Canada under the GATS, including its specific commitments.

5. The measures put the services suppliers of the Russian Federation and their services in less favourable position than services suppliers from any third country and their services that are not

subjected to like impediments. Such measures are not in conformity with the provisions of GATS Article II.

6. The criteria for inclusion of particular Russian persons in the list and thus application of the measures in their respect are not provided for by the Special Economic Measures Regulations. On the contrary, the application of the measure is at full discretion of Governor in Council of Canada without any further clarification, guidance or justification. It is not clear why notwithstanding its specific commitments undertaken in various services sectors Canada applies a measure that is not administered in reasonable, objective or impartial manner. For these reasons such measures are not in conformity with the requirements of GATS Article VI and the specific commitments of Canada under the GATS.

7. Prohibition to conduct any transaction within the territory of Canada effectively means that the Russian service suppliers are precluded from supplying their services both through mode 1 and mode 3 notwithstanding the specific commitments undertaken by Canada in particular sectors. For these reasons such measures are not in conformity with the specific commitments of Canada under the GATS.

8. Moreover, GATS Article XI prevents Canada from imposing any restrictions on international transfers and payments for current transactions relating to specific commitments of Canada. For these reasons such measures are not in conformity with GATS Article XI.

9. The Russian Federation also notes that notwithstanding specific commitments undertaken by Canada in respect of mode 3 in the banking sector the Special Economic Measures Regulations effectively preclude number of Russian banks designated by Governor in Council of Canada to establish a commercial presence within the territory of Canada. Moreover, the Special Economic Measures Regulations prohibit cross-border supply of services by the Banks as well as payments related to their activities.

10. In addition the provisions of Special Economic Measures Regulations contravene the obligations of Canada under the GATT as they effectively prohibit trade in goods with the Russian persons included in the list. In particular, this prohibition puts the goods destined to the Russian Federation in less favourable position than like goods destined to any other country. This prohibition also constitutes a restriction on exportation and sale for exports of products destined to the Russian Federation. Thus this measure is not in conformity with GATT Articles I and XI.

11. In the absence of any justification under the WTO Agreement on the part of Canada, the Russian Federation urges Canada to bring its Special Economic Measures Regulations in line with the GATS, its specific commitments, and the GATT.

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