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## ARGENTINA – MEASURES AFFECTING THE IMPORTATION OF GOODS

### NOTIFICATION OF AN OTHER APPEAL BY THE EUROPEAN UNION UNDER ARTICLE 16.4 AND ARTICLE 17 OF THE UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES (DSU), AND UNDER RULE 23(1) OF THE WORKING PROCEDURES FOR APPELLATE REVIEW

The following notification, dated 1 October 2014, from the Delegation of the European Union, is being circulated to Members.

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1. Pursuant to Article 16.4 and Article 17 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (DSU) and Rule 23 of the *Working Procedures for Appellate Review*, the European Union hereby notifies its decision to appeal to the Appellate Body certain issues of law and certain legal interpretations developed by the Panel in *Argentina – Measures Affecting the Importation of Goods* (WT/DS438/R) (Panel Report).

2. The European Union submits that the Panel made an error in applying Article 6.2 of the DSU when determining its terms of reference in this case. Specifically, The European Union submits that the Panel erred when finding that the 23 measures described by the European Union in Section 4.2.4 of its first written submission as "specific instances" of application of alleged RTRRs were not precisely identified in the EU's Panel Request as measures at issue and that, accordingly, those 23 measures did not constitute "measures at issue" in the present dispute.<sup>1</sup> Those measures were clearly identified on substance in the EU's Panel Request in accordance with the requirements under Article 6.2 of the DSU. Thus, they were "measures at issue" in this dispute and the Panel should have examined them accordingly.

3. Moreover, as a conditional appeal, should the Appellate Body agree with Argentina's appeal in this case and, thus, reverse or otherwise modify any of the Panel's findings that the TTR measure exists and that was inconsistent with Articles XI:1 and III:4 of the GATT 1994, the European Union requests the Appellate Body to complete the analysis and find that Argentina violated Articles XI:1 and/or III:4 of the GATT 1994 in each of the 23 specific measures described by the European Union in Section 4.2.4 of its first written submission.

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<sup>1</sup> See e.g. Preliminary Ruling of 20 November 2013, para. 4.38; and Panel Report, para. 7.1(c).