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RUSSIAN FEDERATION – RECYCLING FEE ON MOTOR VEHICLES

REQUEST FOR CONSULTATIONS BY THE EUROPEAN UNION

The following communication, dated 9 July 2013, from the delegation of the European Union to the delegation of the Russian Federation and to the Chairperson of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request 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 XXII of the General Agreement on Tariffs and Trade 1994 ("GATT 1994"), and Article 8 of the Agreement on Trade-Related Investment Measures (the TRIMs Agreement) regarding Russia's measures relating to a charge, the so called "recycling fee", imposed on motor vehicles. These measures adversely affect exports of motor vehicles from the European Union to Russia.

Russia subjects imported vehicles to the payment of a "recycling fee". In contrast, domestic vehicles are exempted from that payment, under certain conditions. An exemption is also available to vehicles imported from certain countries, such as Belarus and Kazakhstan. However, there is no exemption for vehicles imported from the European Union. As a result, vehicles imported into Russia from the European Union are treated less favourably than domestic vehicles, or vehicles imported from Belarus and Kazakhstan.

Furthermore, the structure of the "recycling fee" also appears to afford protection to domestic production. The "recycling fee" is progressive as regards different categories of vehicles. In addition, a distinction is made between "new" vehicles and vehicles "produced more than three years ago" for which there is a steep increase in the level of the fee. Such structure of the fee has a detrimental impact on imported vehicles as compared with relevant domestic vehicles.

Russia imposes these measures through, inter alia, the legal instruments listed below, as well as any amendments, replacements, extensions, implementing measures or other related measures, including any act of Russia's Parliament or Russia's executive that would confirm, extend, amend, or otherwise affect the measures in question:

- Federal Law No 89-FZ on production and consumption wastes, as amended by Federal Law No 128-FZ on introduction of amendments to the Federal Law No 89-FZ on production and consumption wastes and Article 51 of the Budget code of the Russian Federation (Федеральный закон Российской Федерации от 28 июля 2012 г. N 128-ФЗ "О внесении изменений в Федеральный закон "Об отходах производства и потребления" и статью 51 Бюджетного кодекса Российской Федерации") published in Rossiyskaya Gazeta (Российская газета) No 5845 of 30 July 2012
- Resolution of the Government of the Russian Federation No 870 of 30 August 2012 on recycling fee for wheeled transport vehicles (Постановление Правительства РФ от 30 августа 2012 г. № 870 "Об утилизационном сборе в отношении колесных транспортных средств"), and Rules ("Правила") annexed thereto, published in Rossiyskaya Gazeta (Российская газета) No 5873 of 31 August 2012

Russia's measures appear to be inconsistent with Russia's obligations under the covered agreements and, in particular:

- Article I:1 of the GATT 1994;
- Article II:1 (a) and (b) of the GATT 1994;
- Article III:2 of the GATT 1994;
- Article III:4 of the GATT 1994;
- Article 2.1 and 2.2 of the TRIMs Agreement in conjunction with paragraphs 1(a) and/or 2(a) of the Illustrative List annexed to the TRIMs Agreement.

The European Union reserves the right to address additional measures and claims under other provisions of the covered agreements regarding the above matters during the course of the consultations.

The European Union looks forward to receiving Russia's reply to this request. The European Union is ready to consider with Russia mutually acceptable dates to hold consultations in Geneva.
