



4 November 2014

(14-6403)

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Original: English

RUSSIA - TARIFF TREATMENT OF CERTAIN AGRICULTURAL AND MANUFACTURING PRODUCTS

REQUEST FOR CONSULTATIONS BY THE EUROPEAN UNION

The following communication, dated 31 October 2014, from the delegation of the European Union 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 19 of the Agreement on Implementation of Article VII of the GATT 1994 regarding the tariff treatment Russia accords to certain goods in both agricultural and manufacturing sectors. These measures adversely affect exports of these goods from the European Union to Russia.

Russia subjects a number of goods to import duties inconsistent with its Schedule of Concessions and Commitments annexed to the GATT 1994 ("Schedule"). In particular, Russia applies duties in excess of bound rates, in several different ways.

Firstly, for certain goods, including paper and paperboard, the applied *ad valorem* duty rates – as provided for in the legal instruments referred to below – exceed the *ad valorem* bound rates. By way of example, for five tariff lines (4810 22 900 0, 4810 29 300 0, 4810 92 300 0, 4810 13 800 9 and 4810 19 900 0) the applied duty of 15% or 10% clearly exceeds the bound rate which is set at 5%.

Secondly, for certain other goods, including palm oil and its fractions, refrigerators and combined refrigerator - freezers, those instruments provide for a type/structure of duty that varies from the type/structure of duty recorded in the Schedule. The structure and design of the specific variations at issue result in duties being levied in excess of those provided for in the Schedule for these goods in cases where the customs value is below a certain level. This concerns for example the following tariff lines: 1511 90 190 2, 1511 90 990 2 (palm oil) and 8418108001, 8418102001, 8418211000 (refrigerators and combined refrigerator – freezers).

In addition, it appears that, in relation to certain goods originating in the European Union, Russia's authorities do not base their valuation for customs purposes on the actual value of imported merchandise on which duty is assessed.

Russia imposes these measures through, inter alia, the following legal instruments:

- Common Customs Tariff of the Customs Union of the Republic of Belarus, Kazakhstan and Russian Federation, approved by Decision No. 54 of the Board of the Eurasian Economic Commission of 16 July 2012 "On the Common Customs Tariff Regulation of the Customs Union of the Republic of Belarus, Republic of Kazakhstan and the Russian Federation" (entered into force on 23.08.2012), as amended by subsequent acts, including by:

- Decision No. 9 of the Board of the Eurasian Economic Commission of 29 January 2014 "On the determination of the import customs duty rates in the Common Customs Tariff of the Customs Union with regard to certain types of paper and paperboard";
- Decision No. 77 of the Board of the Eurasian Economic Commission of 26 May 2014 amending the Single Commodity Nomenclature of Foreign Economic Activities of the Customs Union and the Single Customs Tariff of the Customs Union in respect of certain goods in accordance with the WTO accession commitments of the Russian Federation and approving the draft Decision of the Council of Eurasian Economic Commission;
- Decision No. 52 of the Council of the Eurasian Economic Commission of 16 July 2014 "On the determination of the import customs duty rates in the Common Customs Tariff of the Customs Union in respect of certain goods in accordance with the obligations of the Russian Federation in the WTO".

For each of the measures referred to above, this request also covers any amendments, replacements, extensions, implementing measures or other related measures adopted by the bodies of the Eurasian Economic Commission and/or by the legislative or executive authorities of Russia.

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

- Article II:1 (a) and (b) of the GATT 1994;
- Article VII of the GATT 1994;
- Agreement on Implementation of Article VII of the GATT 1994, Articles 1 through 7 and Annex I.

These measures appear to nullify or impair the benefits accruing to the European Union directly or indirectly under the covered agreements.

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 and expresses its readiness to consider a mutually convenient date and place for the consultations.
