WORLD TRADE ORGANIZATION

G/TRIMS/Q/RUS/3

10 December 2015

(15-6531)

Committee on Trade-Related Investment Measures

Original: English

RUSSIAN FEDERATION – LOCAL CONTENT REQUIREMENTS FOR PURCHASES BY STATE-OWNED ENTERPRISES

REPLIES TO QUESTIONS[1] FROM THE UNITED STATES

The following communication, dated 10 December 2015, is being circulated at the request of the Delegation of the Russian Federation.

_____

Question

The United States is concerned about a growing emphasis in Russia on local content requirements and import substitution policies. For example, on 28 January 2015, Russia published its "Plan of Priority Measures to Ensure Sustainable Economic Development and Social Stability in 2015" – the so-called "Anti-Crisis Plan". An important element of the plan is the call for government action to support import substitution. In fact, the Government of Russia has already taken steps to implement this import substitution strategy for medical devices. On 5 February 2015, the Russian Government adopted Resolution No. 102, "Establishing Market Entry Restrictions for Individual Types of Medical Devices Originating from Foreign Countries in the Context of Procurement for State and Municipal Needs." According to the Resolution, certain foreign-made medical devices are not eligible for state and municipal government procurement tenders if the device is made by two or more producers in the Eurasian Economic Union (Russia, Kazakhstan, Belarus, and Armenia).

Unfortunately, Russia appears to be preparing to expand these kinds of requirements beyond government procurement. It is our understanding that Russia is considering applying requirements to purchase Russian-made inputs to state-owned enterprises as well. Proposed amendments to the Federal Law No. 223 (dated 18 July 2011) will allow the Russian Government to "establish specifics of procurement plans and tender rules for procurement by specific entities or procurement of specific goods, works and services by state-owned companies, including during implementation of investment projects." The Explanatory Note describing the proposed amendments acknowledges that the current law could be viewed as inconsistent with Russia's WTO obligations.[2] Notwithstanding this concern, and a stated desire to create new rules in line with WTO obligations, the new language still appears to authorize the government to frame procurement plans or tender rules to effectively require SOEs to purchase Russian goods.

1. **The explanatory note to the proposed amendments states that they will bring Russia's policies for purchases by SOE in line with WTO obligations. How will the proposed amendments accomplish this goal?**

2. **How will the Russian Government ensure that purchases carried out under the proposed amendments are used for government procurement, rather than for commercial purposes?**

---

[1] G/TRIMS/W/149.

[2] The current law allows the government to "set a priority on goods of Russian origin and works and services carried out or rendered by Russian persons in relation to goods originating from a foreign country, or work and services performed or rendered by foreign persons."

Reply:

The proposed amendments to the Federal Law of 18 July 2011 No. 223 mentioned by the United States were not adopted.

Nevertheless, certain amendments to the Federal Law No. 223 were introduced by the Federal Law of 13 July 2015 No. 249-FZ. These amendments come into force on 10 January 2016. The Federal Law No. 249-FZ relates to the investment projects with state financing and costs exceeding 10 billion rubles. Principally, these are projects in the public and defense sectors and some of them are aimed at creation of infrastructural facilities for the governmental purposes. The purchases of certain types of machinery for the implementation of such projects may be subject to approval by the Government of the Russian Federation. Thus, the Federal Law of 18 July 2011 No. 223 as amended by the Federal Law of 13 July 2015 No. 249-FZ is in full compliance with the WTO obligations of the Russian Federation.

_____