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Committee on Trade-Related Investment Measures

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RUSSIAN FEDERATION – MEASURES IMPLEMENTING RUSSIA'S IMPORT SUBSTITUTION POLICY

QUESTIONS FROM THE UNITED STATES

The following communication, dated 24 May 2016, is being circulated at the request of the Delegation of the United States.

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The United States has noted during prior meetings of the WTO Committee on Trade-Related Investment Measures a growing emphasis in the Russian Federation 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.

We recognize that many provisions of the Anti-Crisis Plan relate to government procurement, outside the scope of the TRIMs. However, we have a number of indications that certain steps being taken by the Russian government may go beyond government procurement.

Attached to this document is a list of measures which could have relevance to the TRIMs Committee. We acknowledge that the information we have been able to obtain is incomplete. With respect to each of the measures described below, we request the Russian Federation to help Members to understand these measures by addressing the following questions:

1. Is the description provided of each measure accurate? If it is not, please provide a better description of the measure.

2. Where can Members find additional information about each listed measure?

3. With respect to each measure, please explain whether the measure requires use of Russian-made goods or otherwise may implicate the obligations of the TRIMs Agreement.

4. With respect to each measure, please explain whether there are additional aspects of the measure that could favor domestic companies. For example, if a measure encourages or requires purchasing from small- and medium-sized enterprises (SMEs), can the obligation be fulfilled by purchasing from foreign SMEs?

5. What is the current status of each listed measure? A number of the measures refer to deadlines (e.g., by which implementing laws or regulations must be drafted) which have passed. In these cases, please inform Members whether the deadline was met, and whether any implementing laws or regulations have gone into effect. Where a deadline is in the near future, please inform Members of whether the government anticipates being able to meet it.

1. Decision No. 5 from the 17 April 2015 meeting between PM Medvedev and the President's Council on Modernization and Innovative Development in Russia, directing the Ministries of Finance, Economic Development, Natural Resources and the Environment, and Energy to draft, by 14 July 2015, a federal law to amend the Tax Code of the Russian Federation, in order to provide an economic stimulus for the use of Russian technology, equipment, components, software, and services while conducting geological-exploratory work by means of deductions for expenses associated with such work.

2. Decision No. 6 from the 17 April 2015 meeting between PM Medvedev and the President's Council on Modernization and Innovative Development in Russia, directing the Ministries of Economic Development, Natural Resources and the Environment, Industry and Trade, and Energy to present to the Government, by 25 June 2015, proposals for creating a system for stimulating the use of Russian technology, equipment, components, software, and services by mining and mining service organizations, including by means of the introduction, from 1 January 2016, of tax preferences depending on the shares of such equipment in the production process and including the establishing of obligations on mining service organizations receiving state support for the financing of research and development to purchase innovative domestic technology, equipment, components, software, and services.

3. Decision No. 7 from the 17 April 2015 meeting between PM Medvedev and the President's Council on Modernization and Innovative Development in Russia, directing the Ministry of Industry and Trade, together with the Ministries of Natural Resources and the Environment, Energy, Defense, and others, to draft legal and regulatory acts, by 25 June 2015, approving a list of equipment, components, software, and services for conducting geological-exploratory and extracting work in discovering and mining hard commercial minerals which are suitable for import substitution in a short-, medium-, and long-term timeframe.

4. The Ministry of Industry and Trade issued Order No. 645 of 31 March 2015 ("On approval of the schedule of measures on import substitution in oil-and-gas machine building industry"), which establishes local content requirements that must be met in order to obtain a license to develop a new oil field. The Order lists the maximum percentage of foreign-produced equipment, technologies, services, and software that can be used in the oil and gas industry, with the percentages declining from 2014 to 2020.

5. Order of the Government of the Russian Federation, No. 286-r, dated 23 February 2015, allocates 2 billion rubles to RosAgroLeasing for the purpose of implementing a program of "preferential leasing" of modern, high-performance agricultural equipment of Russian production (likely to increase demand for domestically-produced agricultural equipment) and the "support of exports."

6. Federal Law No. 249-FZ (dated 13 July 2015), among other things, amended the Federal Law "On the Procurement of Goods, Works, and Services by Certain Legal Entities," (Federal Law No. 223-FZ dated 18 July 2011). The amendments in Federal Law No. 249-FZ, together with Resolution No. 785, dated 4 August 2015, established a "Governmental Commission on Import Substitution," which was first constituted on 11 August 2015. As of 1 January 2016, the Commission assumed responsibility for coordinating and approving procurements of machinery and equipment for investment projects by SOEs, state corporations, or private businesses (if the government's direct support to the project is 10 per cent or more). The decisions of this Agency, including the list of equipment that may be purchased abroad, may not be made public. The Explanatory Note to the bill that became Federal Law No. 249-FZ noted that the amendments to Law No. 223-FZ were intended to grant the Russian Government the authority 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. [Explanatory Note to the Draft Federal Law No 750892-6, "On Amending the Federal Law 'On the Procurement of Goods, Works, and Services by Certain Legal Entities'," introduced into the State Duma on 24 March 2015 ("Пояснительная записка к законопроекту" *located at* http://asozd2.duma.gov.ru/main.nsf/%28SpravkaNew%29?OpenAgent&RN=750892-6&02.]

7. The Resolution of the Government of the Russian Federation No. 451 (dated 8 May 2015), allocates 2.5 billion rubles to a new program to stimulate automobile leasing and the production and sale of Russian-produced automobiles. Under the program, funds will be provided to Russian automotive leasing companies that agree to provide up-front discounts to individual customers. The Resolution references the "Automobile Industry" subprogram of the Russian State Program "On the Development of Industry and Increasing its Competitiveness." The document announcing the Resolution (*located at* http://govenrment.ru/docs/18099) indicates that the principal expected result of the support program is an increase in the production and sale of Russian automobile equipment.

8. Resolution of the Government of the Russian Federation No. 1442 (dated 24 December 2015) ("On procurement of innovative products, high-tech products certain types of legal entities and amending certain Acts of the Russian Federation") sets forth procedures for establishing the annual volume of purchases by SOEs of innovative and high-tech products, including a minimum volume of purchases that must be made from SMEs. Resolution No. 717 (dated 19 April 2016) identifies the 135 SOEs that are subject to the minimum SME purchasing requirements.

9. Order No. 2258-r (dated 6 November 2015) ("On Approving the List of Specific Purchasers Whose Draft Plans for Purchases of Goods, Works, and Services; Draft Plans for Purchases of Innovative Products, High-Tech Products, and Medicines; and Draft Amendments to Such Plans are Subject to Evaluation by the 'Federal Corporation for the Development of Small and Medium Business' before their Confirmation for Compliance with the Requirements of Russian Legislation Providing for the Participation of Small and Medium Enterprises in Purchasing") extends the government's control over certain SOE's purchases. The Order identifies 35 SOEs (including Gazprom, Rosneft, Russian Railways, and Aeroflot) whose purchasing plans for hi-tech, innovative, and pharmaceutical products must be assessed by the Federal Corporation for Development of Small and Medium-sized Business to ensure participation of SMEs in the SOEs' purchases.

10. Law 488-FZ (dated 31 December 2014) ("On Industrial Policy") and Resolution No. 708 (dated 16 July 2015) ("On Special Investment Contracts in Certain Spheres of Industry") together created "Special Investment Contracts" (SPIC) as another vehicle available to investors to engage in import substitution programs. An investor who signs a SPIC will receive government benefits (such as tax preferences) if the investor agrees to create or modernize a manufacturing industry in order to assimilate manufacture of industrial products in Russia; introduce the best available innovative technology into a manufacturing industry; and/or assimilate the manufacturing of products currently without analogues produced in Russia. At a meeting on 26 April 2016, Prime Minister Medvedev admitted that pending legislative amendments provide that businesses that sign up for a SPIC may be granted the status of "sole supplier" for government procurement purposes. (http://government.ru/news/22797/)

11. Assignment 168(1) resulting from the 1st Russian Forum "Internet Economy" on 2 December 2015 instructed Russia's Ministry of Economic Development, Ministry of Communications, and Ministry of Industry and Trade – together with the interested federal executive bodies and the Autonomous Noncommercial Organization ("ANO") "Institute of the Internet Development" – to submit proposals on the introduction of changes to legislation to ensure the priority of Russian-produced software and equipment when making purchases. The proposals are due 1 June 2016. http://www.kremlin.ru/acts/assignments/orders/51235#sel=1:2,1:2

12. Assignment 168(6) resulting from the 1st Russian Forum "Internet Economy" on 2 December 2015 instructed Russia's Ministry of Economic Development, Ministry of Industry and Trade, Ministry of Communications, and the Federal Service for Technical and Export Control – together with the interested federal executive bodies and ANO "Institute of the Internet Development" – to submit proposals for creating the Centre of Import Substitutions in the Sphere of Information and Communication Technologies. The proposals were due 1 April 2016. http://www.kremlin.ru/acts/assignments/orders/51235#sel=1:2,1:2

13. The Ministry of Communications and Mass Media has proposed an IT Development Fund (http://minsvyaz.ru/ru/events/34921/) to provide venture capital to domestic information technology (IT) companies to design and market products. The fund may also divert 250 million rubles ($3.8 million) to promote Russian software exports and 50 million rubles ($759,000) to establish an import substitution center monitoring government IT procurement bids, according to *Vedomosti*.

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