WORLD TRADE ORGANIZATION

G/ADP/Q2/RUS/5

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**Committee on Anti-Dumping Practices**

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## ARTICLE 16.4 OF THE AGREEMENT

### REPLIES TO FOLLOW-UP QUESTIONS[1] OF UKRAINE REGARDING ANTI-DUMPING INVESTIGATIONS CONCERNING IMPORTS OF BARS AND RODS AND FERROSILICOMANGANESE ORIGINATING IN UKRAINE TO THE TERRITORY OF THE EURASIAN ECONOMIC UNION

The following communication, dated 26 April 2017, is being circulated at the request of the delegation of the Russian Federation.

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**Question 1**

**In the reply to Question 1, the Members of the Eurasian Economic Union stated that when establishing periods for a dumping investigation, the Department for Internal Market Defence of the Eurasian Economic Commission (hereinafter – the DMID) takes into account the particular circumstances of a given investigation to ensure that a period is appropriate in each case.**

**Would Armenia, Kazakhstan, the Kyrgyz Republic and the Russian Federation clarify what specific circumstances were taken into account in investigations concerning imports of bars and rods and ferrosilicomanganese that led to such different periods for a dumping investigation 6 and 18 months? Please explain how the simultaneous initiation of anti-dumping and anti-subsidy investigations affected the determination of period of investigation?**

Reply

The periods of investigation for dumping are clarified in the corresponding sections of the reports on the results of anti-dumping investigations concerning imports of bars and rods and ferrosilicon manganese originating in Ukraine.[2] In fact, in the anti-dumping investigation concerning bars and rods the period of investigation for dumping was 9 months and not 6 months, as Ukraine asserts.

In establishing the period for dumping investigation concerning bars and rods the DIMD took into account the necessity to collect data for the period ending as close to the date of initiation as is practicable.

Section 1.3 of the Report on the results of the anti-dumping investigation on ferrosilicon manganese originating in Ukraine contains clarifications regarding the period of data collection for dumping investigation. In establishing the period for dumping investigation concerning ferrosilicon manganese the DIMD took into account the simultaneous initiation of anti-dumping and countervailing duty investigations in order to consider the concurrent impact of subsidised and dumped imports on the domestic industry, as well as the necessity to collect data for the period ending as close to the date of initiation as is practicable.

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[1] G/ADP/Q2/ARM/3 - G/ADP/Q2/KAZ/3 - G/ADP/Q2/KGZ/3 - G/ADP/Q2/RUS/4.

[2] Please refer to Section 1.3 of the Report on the results of the anti-dumping investigation on ferrosilicon manganese originating in Ukraine and Section 1.4 of the Report on the results of the anti-dumping investigation on bars and rods originating in Ukraine.

**Question 2**

**In the reply to Question 2, the Members of the Eurasian Economic Union stated that the report on the results of the investigation on bars and rods (hereinafter referred to as "Report") and the proposal on the necessity of application of an anti-dumping measure was considered by the Commission on 28 April 2015.**

**Along with this in the reply to Question 3, the Members of the Eurasian Economic Union stated that on 14 May 2015 the Report which contained the final results of the anti-dumping investigation on bars and rods was published on the official website of the Eurasian Economic Commission.**

**Moreover, it is indicated in the webpage of the Eurasian Economic Commission[3] that the notification on application of the anti-dumping measures on bars and rods originating in Ukraine was published on March 31, 2016. In the notification, it is indicated that the decision on the imposition of the measures:**

**1) was adopted on March 29, 2016, and**
**2) was based on the report of the DMID dated March 29, 2016.**

**Therefore, it is not clear how the date 28 April 2015 could be considered the date of conclusion of investigation if the Report with final results was published only on 29 March 2016?**

**Is it therefore correct that the definitive anti-dumping measures on bars and rods originating in Ukraine:**

**1) were imposed through the EEC Decision No. 28 of 29 March 2016?**
**2) were imposed after considering the evidence, analysis and recommendations contained in the report submitted by the DMID on March 29, 2016?**

**Would Armenia, Kazakhstan, the Kyrgyz Republic and the Russian Federation, please, clarify the situation with the Reports and the date of conclusion of investigation, as according to the date of the last report, the investigation on bars and rods was conducted during 28 month?**

**Against the above facts, how can the anti-dumping measures at stake not be in violation of Article 5.10 of the WTO Anti-Dumping Agreement, in light of the interpretation given by the panel in Mexico – Olive Oil of Article 11.11 of the Agreement on Subsidies and Countervailing Measures?**

Reply

The anti-dumping measure on imports of bars and rods originating in Ukraine was imposed pursuant to Decision of the Board of the EEC No. 28 dated 29 March 2016 "On imposition of an anti-dumping measure in the form of an anti-dumping duty on bars and rods originating in Ukraine and imported into the customs territory of the Eurasian Economic Union".

The EAEU legislation provides that the date of conclusion of an investigation shall be the date on which the Commission considers the report pursuant to the investigation and the Commission's draft act. The Commission considered the report on the results of the investigation on bars and rods and the proposal on necessity of application of an anti-dumping measure on 28 April 2015. Accordingly, the anti-dumping investigation on bars and rods originating in Ukraine was completed on 28 April 2015, within the period of 18 months, which is consistent with Article 5.10 of the Anti-Dumping Agreement.

[3] www.eurasiancommission.org/ru/act/trade/podm/investigations/AD-13/default.aspx.