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Page: 1/2

Committee on Trade-Related Investment Measures

Original: English

**RUSSIAN FEDERATION – MEASURES IMPLEMENTING
RUSSIA'S IMPORT SUBSTITUTION POLICY**

REPLIES TO QUESTIONS¹ FROM THE EUROPEAN UNION

The following communication, dated 7 November 2017, is being circulated at the request of the Delegation of the Russian Federation.

Question 1

In EU's understanding the Federal Law 223-FZ "On purchases of goods and services by certain types of legal entities", as amended by Law 249-FZ of 13 July 2015, covers, on the one hand, purchases by entities covered by Article 1(2) of the Law, i.e. essentially companies in which the State or State entities hold an interest of over 50%, (hereafter "State Owned Enterprises" or "SOEs") and, on the other hand, purchases by any legal person using State funding for implementation of investment projects that are included in a specific registry (Articles 1(5) and 3.1 of the Law). Is this understanding correct?

Question 2

With regard to purchases by SOEs, it is the EU's understanding that, according to Article 3 (8) of the Law, the government of the Russian Federation may require priority for goods of Russian origin and for works and services performed or rendered by Russian persons. Could the Russian Federation confirm this understanding and indicate the conditions and the procedures and the criteria used for requiring such priority. Please also indicate any implementing acts.

Question 3

With regard to purchases by SOEs, according to Article 3 (8) of the Law, the government of the Russian Federation may require the participation by small and medium-sized enterprises (hereafter "SMEs") in procurement tenders. Could the Russian Federation indicate the exact definition of SMEs as concerned by this provision, whether SMEs shall be registered in Russia to be eligible, if foreign ownership is limited to 49% to be eligible and if there is indeed an allocation of 18% of share for SMEs in the purchases by SOEs with a turnover above 10 billion USD?

Question 4

With regard to purchases for investment projects, according to Article 3.1(4) of the Law, the government of the Russian Federation determines the procedure for selecting investment projects for inclusion in a registry. In our understanding this procedure was determined in the resolution of the government of the Russian Federation No 1516 of 30 December 2015. Could the Russian Federation indicate the conditions for being included in a registry and if the list of investment projects is public?

¹ G/TRIMS/Q/RUS/5.

Question 5

With regard to purchases for investment projects, according to Article 3.1(7) of the Law, the government of the Russian Federation may determine particular types of products that may not be purchased by the entities concerned outside the Russian Federation without approval of such purchases by the coordination authority.

- a. Could the Russian Federation confirm that the goods listed by the governmental orders n°2781-r of 29 December 2015 and n°2744-r of 29 December 2015 cannot be purchased abroad and on what basis the criteria for this list was established?**
- b. Could the Russian Federation indicate the procedure and criteria (and their legal basis) based on which the coordination authority grants or refuses to grant its approval for such purchases?**
- c. Please indicate whether the approval procedure also applies to products other than those listed in the orders n°2781 and n°2744.**

Question 6

In EU's understanding, pursuant to Article 3.1(9)-(11) of the Law, entities implementing investment projects are required to establish lists of products from the machine building industry required for implementation of investment projects and submit such lists "for the consideration of" the coordination authority. Those lists should in particular include information on whether the products originate in a foreign country and on operational characteristics and estimated prices of such products. Please explain the rationale and operation of this requirement.

Reply

Clarifications regarding purchases by State Owned Enterprises have been provided by the Russian Federation during the Trade Policy Review and can be found in document WT/TPR/M/345/Add.1.
