

WTO COUNCIL FOR TRADE IN GOODS
Agenda Item 7
Russian Federation's – Trade Restricting Measures

Statement by Ukraine
15 April 2016, Geneva

Thank you, Chair:

The Ukrainian delegation draws Members' attention again today to burdensome trade restrictions being applied by the Russian Federation, which restrict and unduly complicate international traffic in transit from the territory of Ukraine to third country destinations via the territory of the Russian Federation. Ukraine first noted these onerous transit barriers in a communication dated 13 January 2016. Subsequently, Ukraine raised concerns in the General Council on 24 February 2016 as well as in March at the Committee on Agriculture. Unfortunately, these non-transparent, non-justified and overly burdensome restrictions applied by the Russian Federation continue unabated. In fact, indications now point to the linking of un-related technical barriers to these already overly restrictive transit restrictions, which results in a substantially expanded potential products facing even more dubious and unnecessary rules for Members' traffic in transit.

Chair, very serious systemic concerns arise due to:

- the abrupt manner in which the Russian Federation imposed these measures,
- the continued lack of public information detailing operational guidance,
- the absence of convincing and supporting rationale to even come close to justifying any identifiable transit risks posed,
- the unjust and non-uniform application of onerous, costly burdens imposed.

Unfortunately, significant reduced trade via this corridor only amplifies that makes Ukraine's trade concern is very tangible. These disruptive transit restrictions are affecting trade to other destinations – eliminating altogether the export of some products and severely impacting the competitiveness of other export goods due to unnecessary additional costs. Viewed from the wider perspective beyond the transit restrictions, we are observing that other Russian measures are further hindering or stopping trade. Thus, the broad systemic nature of these trade concerns surpass a simple bilateral Ukrainian concern and deserve attention from all WTO Members.

As Ukraine noted in G/C/W720, the Russian Federations' Presidential Decree No.1 and Government Resolution No.1 of 1 January 2016 banned all international transit of cargo by automotive and railway transportation from the

territory of Ukraine to Kazakhstan via entry to the territory of the Russian Federation through the Ukraine-Russian border. Goods must now traverse the Republic of Belarus (limited to two check points) and may only exit at the Russian-Kazakhstani border via three check points. The new routing results in up to 900 more kilometers longer transit distance. Compared with earlier routes used prior to 1 January 2016, transit costs are now up to 30 percents greater from Ukraine to Kazakhstan via the Russian Federation.

Additionally, under the Russian Federation's acts all international transit cargo from the territory of Ukraine to Kazakhstan must be sealed and electronically tracked via a proprietary Russian satellite system, (GLONASS) and all transiting personnel (drivers) faced additional registration requirements. In practice, early attempts to conform to the new transit restrictions revealed even more constraints. For example, transit cargo can only move in a police convoy. Each convoy, however, is limited to only ten vehicles (trucks each paying 350 U.S. dollars per vehicle for the escort service).

Such restrictions had no documented basis or practical relation to the stated abstract concern (national security) and served only to negatively impact economy of Ukraine in whole and export potential in particular.

Mentioned above cost and distance factors do not account for the most important factor for business: unpredictable conditions of transit cargo from Ukraine limit business activity itself and disrupt trade links between Ukraine and number WTO Members.

The sudden restrictions enacted on 1 January 2016 by the Russian Federation resulted in a *de facto* short-term total ban of Ukrainian goods transiting to the Caucasus, Central Asia, China, and Mongolia. Slowly, meager export activity to Kazakhstan was attempted in order to test the vague operational guidance. In fact, the non-transparent restrictions could only be peeled back layer, by layer. Unfortunately, the transit of Ukrainian goods to other third countries continues to face non-transparent, non-viable Russian transit restrictions.

Like a Rubik's Cube, more twists and turns revealed even more trade protectionist developments. Ukrainian goods subject to health, safety or conformity allegations (often unsubstantiated based on TBT or SPS) and hence not allowed entry into the Russian Federation market, are apparently also banned for simple transit through Russia's territory. Unfortunately, the discovery of such details is not provided transparently up-front. Goods have been allowed by Russian authorities to embark on the long and costly transit across Russian territory only to be stopped at the check points before exiting the Russian Federation and forced to re-trace the long journey back to Ukraine.

The trade impact on Ukrainian exports in the first quarter (January-March) of 2016 compared to the same period in 2015 decreased on average by **49** percent to Kazakhstan. Export to other destinations in the region (Turkmenistan, Uzbekistan, Azerbaijan, Georgia, Armenia, Kyrgyzstan, Tajikistan) decreased by **48** percent. Ukrainian exports of perishable agricultural goods under the new transit conditions applied by the Russian Federation will essentially be zero. Perishable goods simply face too huge transportation risks under these conditions.

Ukrainian customs officials cite indirect observations indicating other WTO Members have been and are being impacted by these non-transparent, burdensome Russian transit restrictions, as well. Shipments from EU Member States (Romania, Slovakia, Poland, Italy and Hungary) as well as goods from Turkey and Moldova have been apparently refused transit across the Russian Federation at the Ukraine-Russian Federation border. Some shipments apparently were re-routed for transit via Belarus. This sadly represents simply one more unfortunate twist in this unraveling trade protectionist story.

Ukraine has very serious concerns regarding the compatibility and compliance of the Russian Federation measures with Article V of the GATT 1994 on “Freedom of Transit”. Ukraine has raised concerns at the General Council and in other WTO forums with the clear request that the Russian Federation immediately lift these unreasonable and restrictive transit barriers. Unfortunately, the Russian Federation has not indicated any willingness to modify, remove the transit measures or to respond to the underlying trade-related concerns the transit measures raise. All WTO Members seeking international transit of goods across the Russian Federation should be accorded the same basic conditions (most convenient routes, no discrimination as to origin, departure, entry, exit and destination, ownership of goods or transport means). This is not the case under the current measures applied by the Russian Federation.

Chair, Ukraine draws WTO Members’ attention to the substantial negative impact on trade that the Russian Federation’s transit measures are unfortunately causing. While a majority of the trade impact is carried by Ukraine businesses, we sense that the nature and character of the transit measures in questions demand a wider systemic review by all WTO Members. Thus, Ukraine once again requests that the Russian Federation immediately lift these unreasonable and restrictive transit restrictions and re-establish non-discriminating, open transit treatment for all WTO Members.

And finally, Chair, while we do not wish to take time right now in this meeting to share with Members a number of detailed questions that urgently

need a forthright response from the Russian Federation, we are attaching to this statement some of these questions and making these available to all Members. We certainly trust that appropriate and full answers can be forthcoming soonest.

Thank you, Chair