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Council for Trade in Goods

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COMMUNICATION FROM UKRAINE WITH REGARD TO TRADE RESTRICTIONS FROM THE RUSSIAN FEDERATION

The following communication, dated 6 January 2016, is being circulated at the request of the delegation of Ukraine.

1. Ukraine brings WTO Members' attention to the continued aggression of the Russian Federation. The politically motivated and illegal trade measures described below have been adopted, and are being implemented, by the Russian Federation following Ukraine's decision to start the implementation of the Deep and Comprehensive Free Trade Area with the European Union on 1 January 2016.

2. The measures described below are fully inconsistent with international public law, the basic principles upon which the WTO is founded as well as commitments undertaken by the Russian Federation upon accession to the WTO. Ukraine strongly believes that rules must be respected by all WTO Members.

1 FOOD EMBARGO

3. With effect from 1 January 2016, the Russian Federation bans imports of certain agricultural products, raw materials and food originating from Ukraine. This measure is inconsistent with *inter alia* the GATT 1994.

4. This import ban was established through various interrelated normative instruments, including the Resolution of the Government of the Russian Federation of 21 December 2015 No. 1397 "On Amendments to paragraph 1 of the Decree of the Government of the Russian Federation as of 7 August 2014 No. 778".

5. In addition, according to the Government Resolution of the Russian Federation of 7 August 2014 No. 778 "On measures concerning implementation of the Presidential Decree as of 6 August 2014 No. 560 "On applying of certain special economic measures in order to ensure safety of the Russian Federation" by 5 August 2016 import of agricultural products from certain countries including Ukraine is prohibited.

2 MFN DUTIES

6. With effect from 1 January 2016, the Russian Federation has removed the preferential trade regime contemplated under a CIS Free Trade Agreement to imports of certain Ukrainian products. This action is inconsistent with *inter alia* the Vienna Convention on the Law of Treaties.

7. On 16 December 2015, the President of the Russian Federation signed Decree No. 628 unjustifiably and unilaterally suspending the Agreement for a Free Trade Zone between the Russian Federation and Ukraine. On 25 December 2015, the Federation Council approved the Decree.

3 TRANSIT BAN AND OTHER RESTRICTIONS

8. With effect from 1 January 2016, the Russian Federation applies transit restrictions resulting in a *de facto* transit ban. These measures are economically and legally unfounded and artificially worsen the terms and conditions with regard to trade between Ukraine and third countries (Azerbaijan, China, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan, and others). The transit restrictions are blatantly inconsistent with *inter alia* Article V of the GATT 1994 and commitments undertaken by the Russian Federation in its Protocol of Accession to the WTO.

9. None of the twenty-five transit points in the border between Ukraine and the Russian Federation is open for transit of Ukrainian-originating goods: nine are situated close to the Eastern part of Ukraine and cannot be used because of the Russian Federation's aggression in the East of Ukraine, while the remaining sixteen points have been closed by the Russian Federation.

10. The Decree of the Russian Federation of 1 January 2016 No. 1 "On protection of economic security and national interests of the Russian Federation in international transit of goods from the territory of Ukraine to the Republic of Kazakhstan through the territory of the Russian Federation" sets forth that international transit and railway transportation of goods from Ukraine to Kazakhstan through the territory of the Russian Federation can be carried out only through Belarus. According to that Decree, it is allowed to transit Ukrainian goods from Belarus to Kazakhstan only by means of cars or railway transport. Containers (in case goods will be in containers) must be equipped with special "means of identification" (identification seals) and have a connection with the Satellite System GLONASS. Such kind of seals will be installed at the entrance to the territory of the Russian Federation.

11. With the purpose to implement Decree of 1 January 2016 No. 1, Resolution of the Government of the Russian Federation of 1 January 2016 "On protection of economic security and national interests of the Russian Federation in international transit of goods from the territory of Ukraine to the Republic of Kazakhstan through the territory of the Russian Federation" was published. According to it, two transit points for Ukrainian goods are foreseen at the Russian-Belarusian state border and three transit points at the Russian-Kazakhstan state border.

12. Separately, the Russian Federation has not foreseen for Ukraine quota permits for international freight traffic for the fourth quarter of 2015 and imposed these measures in a unilateral manner. This measure also appears to be inconsistent with *inter alia* Article V of the GATT 1994.

13. Finally, the Russian Federation has imposed other restrictions, in the form of bans on Ukrainian products, since the beginning of 2013. These unjustified bans are still in force even though Specific Trade Concerns have been repeatedly raised at TBT and SPS Committee meetings. Measures imposed by the Russian Federation are *inter alia* inconsistent with the WTO TBT and SPS Agreements.

14. Ukraine considers that the above-referred measures of the Russian Federation are inconsistent with the basic principles upon which the WTO is founded as well as commitments undertaken by the Russian Federation upon accession to the WTO, that they are not justified, that they are applied in an unpredictable manner, that they are discriminatory with regard to products of Ukrainian origin and with a view of creating unnecessary obstacles to trade. Due to the Russian Federation's measures, Ukraine is under the necessity to apply adequate countermeasures until the Russian Federation's measures are withdrawn.
