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**RUSSIA – MEASURES AFFECTING THE IMPORTATION OF RAILWAY EQUIPMENT AND PARTS THEREOF**

COMMUNICATION FROM THE RUSSIAN FEDERATION

The following communication, dated 19 March 2020, was received from the delegation of Russia with the request that it be circulated to the Dispute Settlement Body (DSB).

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Please find the communication of the Russian Federation concerning the implementation of recommendations and rulings of the Dispute Settlement Body ("DSB") in the dispute *Russian Federation – Measures Affecting the Importation of Railway Equipment and Parts thereof* (DS499). The Russian Federation respectfully requests you to circulate this communication to the Members.

Russia provides a copy of the above directly to Ukraine.

Furthermore, Russia kindly asks the DSB to take into account the Director-General's announcement of 14 March 2020 on the developments related to the COVID-19 virus and further suspension of all meetings at the WTO until the end of April 2020, including the regular DSB meeting scheduled for 30 March 2020 during which Russia had to inform the DSB of its intentions in respect of implementation in DS499 pursuant to Article 21.3 of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU"). Therefore, Russia respectfully asks the DSB to accept the following communication as Russia's compliance with its obligations under Article 21.3 of the DSU in these special circumstances.

Russia expects that the DSB and the Members, including Ukraine, would not oppose this approach and the relevant Russia's efforts to comply in view of this extraordinary situation.

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On 5 March 2020 the DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, in the dispute *Russian Federation — Measures Affecting the Importation of Railway Equipment and Parts thereof* (DS499).

Russia would like to inform the DSB that it has immediately taken appropriate steps to bring its measures fully into conformity with its WTO obligations, and to comply promptly with the DSB's recommendations and rulings in this dispute in accordance with Article 21.1 and 21.3 of the DSU. Russia has taken appropriate steps to bring the measures found to be inconsistent with the WTO obligations into conformity, as required by Article 19.1 of the DSU.

First, with respect to the so-called "non-recognition of the certificates issued in CU countries other than the Russian Federation", found to be inconsistent with Articles I:1 and III:4 of the General Agreement on Tariffs and Trade 1994, the Ministry of Transport of the Russian Federation (MOT) terminated its Protocol No. AC-3 of 20 January 2015 regarding issuance by the certification authority of the CU of the certificates of conformity for products manufactured by third-countries (refer to the Letter of MOT as of 21 August 2018 № AL-26/12072). The Letters of the Federal Railway Transport Administration as of 4 February 2016 № VCH-35/4779-is, as of 28 January 2015 № VCH-30/410-is and as of 10 August 2016 № UIP-4/2232-ic, challenged by Ukraine, were revoked (refer to the Letters of the Federal Railway Transport Administration as of 12 February 2020 № VCH-35/979-is, as of 12 February 2020 № VCH-30/980-is and as of 8 August 2018 № VCH-35/5424-is, respectively). The relevant Russian legislation does not contain any requirements related to recognition or non-recognition of certificates issued by the competent bodies of Eurasian Economic Union countries other than the Russian Federation.

Second, with respect to the decision rejecting the applications for new certificates found to be inconsistent with Articles 5.1.2 Agreement on Technical Barriers to Trade ("TBT Agreement"), decisions rejecting the applications for new certificates and instructions suspending the certificates, found to be inconsistent with Article 5.2.2 of the TBT Agreement, the Russian certification authority (the Federal Budgetary Organization "Register of Certification on the Federal Railway Transport") has informed Ukrainian producers and applicants for certification on particular requirements to be satisfied and the procedure to be followed in order to obtain the necessary certificates, in particular:

PJSC "Kremenchuk Steel Works" was informed by the letter as of 4 March 2020 №03495, PJSC "Dneprovagonmash" - by the letter as of 4 March 2020 № 03496, PJSC "Poltavhim mash"- by the letter as of 4 March 2020 № 03498, PJSC "Kryukov railway car building works" - by the letter as of 4 March 2020 № 03499 and finally, PJSC "Dnipropetrovsky Strilochny Zavod"- by the letter as of 4 March 2020 № 03500.

The applicants for certification LLP "Trade house Dneprovagonmash" and LLP "TTK-Trans" were informed by letters as of 4 March 2020 № 03497 and № 03501 respectively.

In accordance with the abovementioned letters, the producers may obtain the certificate of conformity if they comply with the requirements of the relevant technical regulations. In order to launch the certification process, an applicant shall submit an application for certification and conclude a contract with the certification body. The abovementioned letters inform on different schemes of relevant conformity assessment procedures, some of them do not require on-site inspection of production and inspection control of certified products. Meanwhile, the inspection of products that requires visiting the territory of Ukraine may take place only subject to the safety of the employees of the certification body.

Therefore, by having taken the abovementioned actions Russia fully implemented the DSB's rulings and recommendations in this dispute, as required by Article 19.1 of the DSU.

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