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**RUSSIAN FEDERATION – MEASURES ON THE IMPORTATION OF LIVE PIGS,
PORK AND OTHER PIG PRODUCTS FROM THE EUROPEAN UNION**

RECOURSE TO ARTICLE 22.2 OF THE DSU BY THE EUROPEAN UNION

The following communication, dated 19 December 2017, from the delegation of the European Union to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Article 22.2 of the DSU.

Pursuant to Article 22.2 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), the European Union requests authorization from the Dispute Settlement Body ("DSB") to suspend concessions and other obligations with respect to the Russian Federation as a result of the Russian Federation's failure to bring its measures into compliance with the recommendations and rulings of the DSB in *Russian Federation – Measures on the Importation of Live Pigs, Pork and Other Pig Products from the European Union* (DS475).

On 21 March 2017 the DSB adopted the Appellate Body report and the panel report, as modified by the Appellate Body report, in *Russian Federation – Measures on the Importation of Live Pigs, Pork and Other Pig Products from the European Union* finding certain measures to be inconsistent with the Russian Federation's obligations under the *Agreement on the Application of Sanitary and Phytosanitary Measures* ("SPS Agreement").¹

Pursuant to Article 21.3(b) of the DSU, the Russian Federation and the European Union agreed that the reasonable period of time ("RPT") for the Russian Federation to implement the DSB's recommendations and rulings would expire on 6 December 2017.² In the view of the European Union, the Russian Federation has failed to comply with the recommendations and rulings of the DSB by the end of the RPT.

In the event of a failure to comply with the recommendations and rulings of the DSB within the RPT, Article 22 of the DSU allows for compensation or the suspension of concessions or other obligations.

In line with current practice, the European Union proposed to the Russian Federation a sequencing agreement whereby on the one hand, the European Union would request authorization to suspend concessions or other obligations only after the DSB has ruled as a result of a proceeding under Article 21.5 of the DSU that a measure taken to comply does not exist or is inconsistent with a covered agreement, and on the other hand, the Russian Federation would not assert that the European Union is precluded from obtaining such authorization because its request was made outside the time period specified in the first sentence of Article 22.6 of the DSU. The Russian Federation has not agreed to such a sequencing agreement.

Under Article 22.6 of the DSU, the DSB, upon request, shall grant authorization to suspend concessions or other obligations, if no satisfactory compensation has been agreed. There is no agreement on compensation in the present case.

¹ WT/DS475/AB/R of 23 February 2017; WT/DS475/R of 19 August 2016.

² WT/DS475/15.

In the light of the foregoing, and in line with the principles and procedures set out in Article 22.3 of the DSU, the European Union hereby requests authorization from the DSB to suspend concessions and other obligations with respect to the goods sector in one or more of the following agreements:

1. the *General Agreement on Tariffs and Trade 1994*;
2. the SPS Agreement; and
3. the *Agreement on Agriculture*.

As required by Article 22.4 of the DSU, the annual level of suspension proposed is equivalent to the level of nullification or impairment of benefits accruing to the European Union from the Russian Federation's failure to bring the measures into compliance with the recommendations and rulings of the DSB. On this basis, the European Union intends to suspend benefits at an annual level equal to 1,39 billion eur (total value of the relevant exports in 2013) plus a yearly increase rate of 15%.

Pursuant to Article 22.6 of the DSU, if the Russian Federation objects to the level of suspension proposed, the matter shall be referred to arbitration.
