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## 8 CONCLUSIONS AND RECOMMENDATIONS

8.1. For the reasons set forth in this Report, the Panel concludes as follows:

- a. In respect of Russia's preliminary ruling request:
  - i. the Panel finds that Russia failed to establish that the European Union's panel request is inconsistent with Article 6.2 of the DSU and that the European Union's claims covered by Russia's preliminary ruling request are outside the Panel's terms of reference.
- b. In respect of the European Union's claims regarding the first to fifth measures at issue, which concern tariff lines 4810 22 900 0; 4810 29 300 0; 4810 92 300 0; 4810 13 800 9; and 4810 19 900 0:
  - i. the Panel finds that Russia is required to apply ordinary customs duties in excess of those set forth and provided in its Schedule of Concessions ("Schedule"), contrary to Article II:1(b), first sentence; and
  - ii. the Panel exercises judicial economy in respect of the European Union's consequential claim of inconsistency with Article II:1(a) of the GATT 1994.
- c. In respect of the European Union's claims regarding the sixth measure at issue, which concerns tariff line 4810 92 100 0:
  - i. the Panel finds that, on the date of the Panel's establishment, Russia was required to apply, as from 1 January 2016, ordinary customs duties in excess of those set forth and provided in its Schedule, contrary to Article II:1(b), first sentence;
  - ii. the Panel exercises judicial economy in respect of the European Union's consequential claim of inconsistency with Article II:1(a) of the GATT 1994; and
  - iii. the Panel finds that the European Union has failed to establish that the sixth measure at issue was, on the date of the Panel's establishment, independently inconsistent with Article II:1(a) of the GATT 1994 because it imposed a temporary duty reduction and at the same time provided for a future duty rate that, from 1 January 2016, would have exceeded the bound duty rate.
- d. In respect of the European Union's claims regarding the seventh and eighth measures at issue, which concern tariff lines 1511 90 190 2 and 1511 90 900 2:
  - i. the Panel finds that, on the date of the Panel's establishment, Russia was required in some instances to apply ordinary customs duties in excess of those set forth and provided in its Schedule, contrary to Article II:1(b), first sentence; and
  - ii. the Panel exercises judicial economy in respect of the European Union's consequential claim of inconsistency with Article II:1(a) of the GATT 1994.
- e. In respect of the European Union's claims regarding the ninth measure at issue, which concerns tariff line 8418 10 200 1:
  - i. the Panel finds that Russia is required in some instances to apply ordinary customs duties in excess of those set forth and provided in its Schedule, contrary to Article II:1(b), first sentence; and
  - ii. the Panel exercises judicial economy in respect of the European Union's consequential claim of inconsistency with Article II:1(a) of the GATT 1994.
- f. In respect of the European Union's claims regarding the tenth and eleventh measures at issue, which concern tariff lines 8418 10 800 1 and 8418 21 800 0:

- i. the Panel finds that, on the date of the Panel's establishment, Russia was required in some instances to apply ordinary customs duties in excess of those set forth and provided in its Schedule, contrary to Article II:1(b), first sentence; and
  - ii. the Panel exercises judicial economy in respect of the European Union's consequential claim of inconsistency with Article II:1(a) of the GATT 1994.
- g. In respect of the European Union's claims regarding the twelfth measure at issue (the alleged "Systematic Duty Variation"):
- i. the Panel finds that the European Union failed to establish its claims of inconsistency with Article II:1(a) and (b), first sentence, because it did not demonstrate the existence of the "Systematic Duty Variation", that is, a measure constituting a general practice and consisting in the systematic application, in relation to a significant number of tariff lines, of a type or structure of duty that varies from the type or structure of duty recorded in the Schedule in a way that leads to the application of duties in excess of those set forth and provided in Russia's Schedule.

8.2. Pursuant to Article 3.8 of the DSU, in cases of failure to comply with obligations assumed under a covered agreement, that failure is considered *prima facie* to constitute a case of nullification or impairment of benefits accruing under that agreement. Consequently, the Panel finds that, to the extent that Russia has failed to comply with certain provisions of the GATT 1994, that failure constitutes a case of nullification or impairment of benefits accruing to the European Union under that agreement.

8.3. Pursuant to Article 19.1 of the DSU, to the extent that the first to eleventh measures continue to be inconsistent with Article II:1(b), first sentence, of the GATT 1994, the Panel recommends that Russia bring them into conformity with its obligations under the GATT 1994.<sup>489</sup>

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<sup>489</sup> As noted in paragraphs 7.85, 7.157 and 7.238 of the Panel's findings above, subsequent to the establishment of the Panel, the sixth, seventh, eighth, ninth, tenth, and eleventh measures at issue were amended, replaced, or otherwise changed.