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Committee on Technical Barriers to Trade

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## RUSSIAN FEDERATION – RULES OF CEMENT CERTIFICATION

### STATEMENT BY THE EUROPEAN UNION TO THE COMMITTEE ON TECHNICAL BARRIERS TO TRADE 20 AND 21 JUNE 2018

The following communication, dated 9 July 2018, is being circulated at the request of the delegation of the European Union.

1. The EU raised this issue in the previous meetings of the TBT Committee and would like refer to its previous statements on this issue.
2. Russian notification G/TBT/N/RUS/48 of the Government Resolution No. 930 of 03.09.2015 "On amendments of the Single List of Goods Subject to Mandatory Certification" added cement to the list of goods subject to mandatory certification. Russian notification G/TBT/N/RUS/49 contained the "Order of Federal Agency for Technical Regulation (Rosstandart) "Conformity assessment. Rules of cement certification", setting out the relevant rules for cement certification.
3. Both measures were adopted and in force at the time of their notifications. The EU therefore reiterates its request to Russia to suspend both measures and to re-notify them under the TBT Agreement at a draft stage, when WTO Members' comments could still be taken into account.
4. The EU deeply regrets not to see any improvement and even worse that Russia continues adopting restricting measures that are disproportionate, unjustified and not notified to the WTO before their entry into force
5. As regards the situation on the ground, the EU would like to recall that, since the introduction of the mandatory certification for cement, the EU exports of cement have been blocked – with the exception of white cement, needed for Russian industry. The EU requests Russia to remove these trade restrictive practices which are a the consequence of the following main restrictions.
6. First, it still remains extremely difficult to obtain the necessary certificates of conformity. EU importing companies (in Russia) having requested certificates to Russian competent authorities face unjustified refusals – no justification is provided on the ground for not delivering the necessary certificates. In a very limited number of cases, where certificates have been issued, the delivered and valid certificates have not been recognised and accepted by the Russian customs authorities, thus blocking the access to the Russian market.
7. Therefore, the EU calls upon Russia to share with the WTO members a list of bodies that are authorised to deliver such certificates. The EU also requests these bodies to provide justification and state the reasons for refusal to issue the certificate of conformity when such refusal takes place.
8. The EU also calls upon Russia to inform its customs that valid certificates cannot be rejected at the border and to ensure that the EU exporters do not face unjustified refusals at the border.

9. The second restriction concerns the inspection controls, as indicated in section 8.2 fourth sentence of the notified GOST standard. According to this provision, the certification body conducts additional inspection control of each batch of cement supplied for imports from third countries. This includes sampling at the border, testing and control of all characteristics set out in the standard according to which the certificate of conformity was granted. On the basis of the results, the certification body has to make a decision whether to confirm, suspend or terminate the certificate of conformity.

10. The EU understands that this provision sets a requirement for "additional inspection control" of each cement batch arriving in Russia.

11. Could Russia please explain what is meant by shipment (whether it would mean each wagon, whole train or yearly production); by whom and how these samples will be taken from imported cement; how the tests will be performed, their length and whether after sampling and testing, the imported cement will be allowed to proceed further to the unloading point and/or to the end consumer or whether the imported cement will be held at the border until the results of the testing are known and a decision on the certificate of conformity is taken which we understand takes on average 28 days.

12. In addition, it appears that this aspect has also been addressed on 11 July 2017 by the Russian Federal Anti-monopoly Service (FAS) in a warning sent to Rosstandard regarding the need to avoid undertaking any action that would involve a discriminatory treatment in the trade of cement from foreign suppliers.

13. The EU would like to ask Russia to inform about the actions that have been undertaken to follow up this opinion.

14. In particular the EU would like to ask the Russian Federation to provide information concerning possible amendments to the relevant standards, in terms of substance, as well as the timing of any change to come in this regime. We also would be grateful if Russia could tell us whether it plans to react to the concerns of the WTO Members.

15. Thirdly, given that no reply has been provided by Russia in the previous TBT Committee meetings, the EU would like to ask Russia once again for the reasons and justification for additional requirements for conformity assessment which affect only imported products. – The GOST-R standard has been amended in January 2017, introducing additional obstacles for importers of cement such as extension from 10 working days to 30 days for the response to an application for a conformity certificate; requirement for a separate certificate for each type of cement; requirement that one shipment is defined by one type and quality of cement and has to be tested according to the relevant standard; requirement to have the quality of cement producer proven and confirmed by an authority that is not identified (arbitrary) etc.).

16. The EU reiterates its request to the Russian Federation to suspend these measures, leading to a de facto ban of cement imports of EU origin, to justify the current additional testing processes at the border for each cement batch exported to the Russian Federation by the EU in light of the TBT rules, and to confirm that the strength test does not have to be performed for certified cement as it leads to it being blocked at the border. The EU also reiterates its request to be informed about the on-going discussion on possible amendments of these measures, both on the content of amendments as well as on the planned timetable for their introduction.