

ПОСТОЯННОЕ ПРЕДСТАВИТЕЛЬСТВО
РОССИЙСКОЙ ФЕДЕРАЦИИ
ПРИ ВСЕМИРНОЙ ТОРГОВОЙ ОРГАНИЗАЦИИ

Avenue Louis-Casaï 71
1216 Cointrin
Geneva, Switzerland



PERMANENT MISSION
OF THE RUSSIAN FEDERATION
TO THE WORLD TRADE ORGANIZATION

Telephone: +41 22 592 32 20
Fax: +41 22 592 32 23

Geneva, 7 March 2022

№ П-756-95

Dear Excellency,

Russia takes note of the Ukraine's communication of 2 March 2022 № 80/017 and its decision to impose a complete economic embargo.

The Russian Federation notes that Article XIII of the WTO Agreement provides for non-application of the Multilateral Trade Agreements between particular Members. However, conditions set out in the said Article only refer to the non-application as between a Member and any other Member if either of the Members, at the time either becomes a Member, does not consent to such application. Therefore, the conditions set out in this Article do not apply to Russia or Ukraine.

We also note that Ukraine relies on Article XXI of the GATT, Article XIVbis of the GATS and Article 73bis of the TRIPS Agreement as a legal basis of its decision not to apply the WTO Agreements in its relations with the Russian Federation.

H.E. Mr. Didier CHAMBOVEY
Chairman,
WTO General Council

The so-called Security Exceptions relied upon are relevant in the context of a limited number of the WTO Agreements, namely Article XXI of the GATT is relevant to the matters covered by the GATT, Article XIVbis of the GATS only applies to the matters covered by the GATS, while Article 73bis of the TRIPS Agreement can only be applied in the context of matters covered by the TRIPS Agreement. Therefore, none of the Security Exceptions relied upon by Ukraine justify non-application of such Multilateral Trade Agreements as ones contained, *inter alia*, in Annex 2 to the Marrakesh Agreement (namely, Understanding on Rules and Procedures Governing the Settlement of Disputes), Annex 3 to the Marrakesh Agreement (namely, Trade Policy Review Mechanism), or Marrakesh Agreement itself. As the Appellate Body in *China - Rare Earths*¹ noted “neither obligations nor rights may be automatically transposed from one part of the legal framework into another”. Moreover, non-application of an international treaty presumes that all of its provisions are not applied, that would presumably include Security Exceptions referred to in Ukraine’s communication as a legal basis of its decision, as well.

The WTO is a rules-based trade organization and shall remain such.

The suggestion of Ukraine to suspend the Russian Federation’s participation in the WTO equally has no legal ground. Such action is not provided in the WTO Agreement.

The Russian Federation would like to stress that we should refrain from discussing in the WTO, which is a trade related organization, and its bodies issues and events, which are out of the scope of the WTO and are under the focus of other international organizations and diplomatic agencies.

In numerous international fora, the WTO Members repeatedly expressed their commitment to strengthen multilateralism and support rules-based, non-discriminatory and transparent multilateral trading system (MTS) with the WTO at its core. Russia notes with regret the efforts of certain Members towards politicization of the WTO and fragmentation of the multilateral trading system instead of engaging

¹ Appellate Body Report, *China - Rare Earths*, para. 5.57

constructively in a substantive dialogue on the key issues of the global trade agenda. On the contrary, all Members need to combine their efforts to improve the WTO's functioning, demonstrate its continued relevance for the international trade and ensure the successful MC-12 with the tangible negotiating results to be delivered.

I would be grateful if you could distribute this communication to all WTO Members.

Please accept, Excellency, the assurances of my highest consideration.

Yours sincerely,



D.Lyakishev
Permanent Representative