

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

November 8, 2012

The Honorable Valeriy Khoroshkovskiy
First Deputy Prime Minister
Kyiv, Ukraine

Dear Mr. First Deputy Prime Minister:

I am writing to reiterate to you the United States' continuing concern about the Delegation of Ukraine's submission to the World Trade Organization (WTO) informing WTO Members that Ukraine intends to modify its bound tariff commitments on more than 350 tariff lines affecting trade in key agricultural and industrial goods under GATT Article XXVIII. I also wanted to report to you the widespread reaction of WTO Members to Ukraine's proposed GATT Article XXVIII action. At the October 3, 2012 meeting of the WTO's General Council, eighteen individual WTO Members took the floor to register serious concerns. They included: Australia, Brazil, Canada, Chile, China, Colombia, Croatia, Guatemala, Hong Kong, Japan, Malaysia, Mexico, New Zealand, Nigeria, Norway, Switzerland, Turkey and the United States. Further, the European Union made a statement on behalf of its 27 member states and Cambodia made a statement on behalf of the following ASEAN members: Burma, Brunei Darussalam, Cambodia, Indonesia, Malaysia, Philippines, Singapore, Thailand and Vietnam. These countries represent more than one-third of the WTO's membership.

These Members stated that Ukraine's proposed action raises serious systemic concerns for the multilateral trading system and pointed to its unprecedented scale, covering a wide range of agricultural and industrial goods. Some Members view the proposed action as a renegotiation of key terms of Ukraine's membership in the WTO, and registered concerns about the systemic implications of that. Many WTO Members are concerned about the legal implications under the the General Agreement on Tariffs and Trade (1994) (GATT) and the inability of Ukraine to maintain a general level of reciprocal and mutually advantageous concessions not less favorable to trade, as is required by Article XXVIII of GATT. Many developed and developing country Members point to specific commercial interests that would be affected. Further, Members have expressed strong concerns about the lack of transparency surrounding the proposal, and the fact that Ukraine has not provided its proposed future binding levels. In addition to the General Council, Members have raised all of these concerns in relevant WTO Committees including the Committee on Market Access, the Committee on Agriculture and the Council on Trade in Goods.

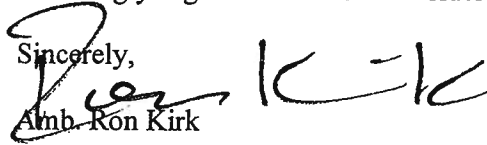
The fact that so many WTO Members raised these concerns demonstrates the degree to which the action is viewed as one that could potentially test the fragile international trading system. Many of the Members have asked Ukraine to reconsider this proposed action, and I reiterate that request today. The United States is also concerned about initial press reports we have seen about the Verhovna Rada recently increasing applied tariff rates on a number of key tariff lines. While we are seeking more information, this only exacerbates our overall view of the tariff situation in Ukraine.

While we all recognize the need to develop policy actions to deal with difficult economic circumstances, we would stress that increased tariff revenue from this action would do little to deal with long-term government revenue concerns. However, given the unprecedented scale of the proposed action and the terms of GATT Article XVIII, Ukraine's proposed action poses a larger threat that trading partners will

attempt to raise their tariffs in a similar manner and scale as Ukraine or in response to Ukraine's proposed actions. This is precisely the type of international escalation that the G20, as well as the WTO and other international organizations, have long feared would significantly intensify global economic risks. Given this strong concern, again the United States strongly urges Ukraine to reconsider this request.

Sincerely,

Amb. Ron Kirk

A handwritten signature in black ink, appearing to read "Ron Kirk", written in a cursive style.

Attachment: Compilation of statements made at the October 3, 2012 General Council meeting