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**MOROCCO – DEFINITIVE ANTI-DUMPING MEASURES ON
SCHOOL EXERCISE BOOKS FROM TUNISIA****REQUEST FOR THE ESTABLISHMENT OF A PANEL BY TUNISIA**

The following communication, dated 19 September 2019, from the delegation of Tunisia to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

On 21 February 2019, Tunisia requested consultations with Morocco pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Article 17.3 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Anti-Dumping Agreement), and Article XXIII:1 of the General Agreement on Tariffs and Trade 1994 (GATT 1994), with regard to a definitive anti-dumping measure imposed by Morocco on imports of school exercise books from Tunisia and certain aspects of the investigation on which this measure is based.

Consultations were held on 11 and 12 June 2019 with a view to reaching a mutually satisfactory solution. However, they failed to resolve the dispute. Therefore, in accordance with Articles 4.7 and 6 of the DSU, Article 17.4 of the Anti-Dumping Agreement and Article XXIII of the GATT 1994, Tunisia requests that the Dispute Settlement Body (DSB) establish a panel to examine this matter. Pursuant to Article 6.2 of the DSU, Tunisia proceeds *infra* to identify the specific measure at issue and to provide a brief summary of the legal basis for the complaint.

A. THE MEASURE AT ISSUE

The measure at issue is the definitive anti-dumping measure imposed on imports of school exercise books from Tunisia, as a result of the investigation initiated by Morocco's Ministry of Industry, Investment, Trade and the Digital Economy (the investigating authority) on 4 May 2017.¹ The definitive measure was imposed through Public Notice No. 13/18 dated 5 November 2018, was published in the Arabic version of Official Journal No. 6740 dated 3 January 2019², and entered into force on 4 January 2019. The anti-dumping duty rates imposed by Morocco are as follows:

Tunisian exporter	Anti-dumping duty
SOTEFI	27.71%
SITPEC	15.69%
Other Tunisian exporters	27.71%

¹ Public Notice No. 06/17 concerning the initiation of an anti-dumping investigation in respect of exercise books from Tunisia.

² The definitive measure was also published in the French version of Moroccan Official Journal No. 6744 dated 17 January 2019.

This request covers the above-mentioned anti-dumping duties, as well as all the documents forming part of the investigation record that led to the imposition of the measure at issue.

This request also covers any amendments, supplements, extensions, replacement measures, renewal measures and implementing measures related to the measure at issue.

B. LEGAL BASIS FOR THE COMPLAINT

Tunisia considers the above-mentioned measure to be inconsistent with the Kingdom of Morocco's obligations under, *inter alia*, the following provisions of the Anti-Dumping Agreement and the GATT 1994:

1. Article 5.2, 5.3, 5.4, first sentence, and 5.8, first sentence, of the Anti-Dumping Agreement, because the application filed by the three applicant companies does not contain sufficient evidence of dumping, injury or a causal link, and because in initiating the investigation, the investigating authority did not sufficiently examine the accuracy and adequacy of the evidence provided in the application to justify the initiation of an anti-dumping investigation;
2. Articles 1, 2.1, 2.2, 3.1, 3.4, 3.5, 9.2 and 11.1 of the Anti-Dumping Agreement and Article VI:1 and VI:6(a) of the GATT 1994, because the determination of dumping and resulting injury was not based on relevant and "positive" evidence justifying the imposition of the measure at the time of its adoption;
3. Article 2.1, 2.2 and 2.2.1 of the Anti-Dumping Agreement and Article VI:1 of the GATT 1994, because the investigating authority treated domestic sales of certain exercise books in Tunisia as not being in the ordinary course of trade by reason of price and disregarded these sales in determining the normal value, without prior determination that these sales were made: (a) within an extended period of time; (b) in substantial quantities; and (c) at prices which did not provide for the recovery of all costs within a reasonable period of time;
4. Articles 2.1, 2.2, 2.4 and 6.8 of the Anti-Dumping Agreement, paragraphs 3, 5, 6 and 7 of Annex II to the Anti-Dumping Agreement, and Article VI:1 of the GATT 1994, because when calculating the normal value, the investigating authority failed to take into account numerous domestic sales that had nevertheless been reported by the Tunisian exporters and provided no justification for this;
5. Article 2.1, 2.2, 2.2.1.1 and 2.2.2 of the Anti-Dumping Agreement and Article VI:1 of the GATT 1994, because the investigating authority committed errors leading to the calculation of an artificially high normal value. In particular, but not exclusively, when reconstructing the normal value, the authority failed to take into account all the sales made in Tunisia for the calculation of the profit margin;
6. Article 2.4 of the Anti-Dumping Agreement and Article VI:1 of the GATT 1994, because the investigating authority failed to make a fair comparison between the normal value and the export price, by not making allowance, in particular, for all the physical characteristics affecting price comparability that were cited by the exporters;
7. Article 3.1 and 3.2 of the Anti-Dumping Agreement and Article VI:1 and VI:6(a) of the GATT 1994, because, *inter alia*:
 - a. The investigating authority failed to properly and objectively consider the volume of the dumped imports, in absolute terms and relative to domestic production or consumption;
 - b. The undercutting margin was erroneously calculated on the basis of a reconstructed sales price for Moroccan exercise books. Moreover, the profit margin of the Tunisian producers was used to reconstruct the price of domestic products without examining whether the market conditions in Tunisia were similar to those in Morocco. The

prices of imports and those of the domestic product were compared erroneously;

- c. The analysis regarding the depression of sales prices and the prevention of price increases is not based on positive evidence and does not involve an objective examination;

8. Article 3.1 and 3.4 of the Anti-Dumping Agreement and Article VI:1 and VI:6(a) of the GATT 1994 with regard to the analysis of injury suffered by the domestic industry (DI), because the investigating authority failed to properly evaluate all relevant economic factors and indices having a bearing on the state of the DI and to conduct an objective examination of the impact of the imports on the performance of domestic producers. Amongst other things, the authority made a finding of injury even though most factors had evolved positively and significantly during the investigation period, and the period of investigation chosen for examining injury and the causal link did not allow for an objective examination of the state of the DI;

9. Article 3.1 and 3.4 of the Anti-Dumping Agreement and Article VI:1 et VI:6(a) of the GATT 1994 with regard to the analysis of injury to the DI, because the investigating authority did not use the same period for all the economic factors and indices, which led to an incorrect finding of injury;

10. Article 3.1 and 3.5 of the Anti-Dumping Agreement and Article VI:1 and VI:6(a) of the GATT 1994 in relation to the causal link analysis, because the investigating authority failed to properly determine a genuine and substantial relationship of cause and effect between the allegedly dumped imports and the injury to the DI. The authority failed to ensure that injury caused by other factors was not attributed to imports originating in Tunisia. Most notably, but not exclusively, the authority failed to objectively examine the causes of injury other than the imports originating in Tunisia, such as competition between the DI and Moroccan producers not part of the DI;

11. Articles 4.1 and 5.4, first sentence, of the Anti-Dumping Agreement (and Article 3.1, 3.2 and 3.4 in a combined reading of these Articles), because the investigating authority limited the "domestic industry" to the applicants and wrongly excluded certain other companies that supported the application; and

12. Article 12.2 and 12.2.2 of the Anti-Dumping Agreement, because the investigating authority failed to provide in sufficient detail the findings and conclusions reached on all issues of fact and law considered material by the investigating authority, and all relevant information on the matters of fact and law and reasons which led to the imposition of the measure at issue.

It appears that Morocco's investigation and definitive measure cannot be reconciled with Article VI of the GATT 1994, Articles 1 and 18 of the Anti-Dumping Agreement, and the specific provisions cited above. Tunisia considers that the measure described above nullifies or impairs the benefits accruing to Tunisia, directly or indirectly, under the Anti-Dumping Agreement and the GATT 1994.

C. REQUEST FOR THE ESTABLISHMENT OF A PANEL

In light of the above, in accordance with Articles 4.7 and 6 of the DSU, Article 17.4 of the Anti-Dumping Agreement and Article XXIII of the GATT 1994, Tunisia requests that the DSB establish a panel to examine this matter. Tunisia further requests that the panel have the standard terms of reference, as set forth in Article 7.1 of the DSU.

Tunisia asks that this request be placed on the agenda of the DSB meeting to be held on 30 September 2019.

This request for the establishment of a panel is without prejudice to the right of the parties to request the possible undertaking of good offices, conciliation or mediation under Article 5 of the DSU.