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**UNITED STATES – ANTI-DUMPING AND COUNTERVAILING MEASURES ON  
CERTAIN COATED PAPER FROM INDONESIA**

**REQUEST FOR CONSULTATIONS BY INDONESIA**

The following communication, dated 13 March 2015, from the delegation of Indonesia to the delegation of the United States and to the Chairperson of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

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My authorities have instructed me to request consultations with the Government of the United States pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("the DSU"), Article XXII:1 of the General Agreement on Tariffs and Trade 1994 ("GATT 1994"), Article 17 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("AD Agreement") and Article 30 of the Agreement on Subsidies and Countervailing Measures ("SCM Agreement") in relation to the measures listed below:

The following determinations by the United States Department of Commerce ("USDOC") and the United States International Trade Commission ("USITC"), including the conduct of the investigations, any notices, annexes, decision memoranda, orders, amendments, or other instruments issued by the United States in connection with the anti-dumping and countervailing duty measures:

- Certain Coated Paper from Indonesia: Initiation of Countervailing Duty Investigation, 74 Fed. Reg. 53707 (Oct. 20, 2009) (USDOC initiation of CVD investigation);
- Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia and the People's Republic of China: Initiation of Antidumping Duty Investigations, 74 Fed. Reg. 53710 (Oct. 20, 2009) (USDOC initiation of AD investigation);
- Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from China and Indonesia, 74 Fed. Reg. 50243 (Sept. 30, 2009) (USITC institution of investigation);
- Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from China and Indonesia, 74 Fed. Reg. 61174 (Nov. 23, 2009) (USITC preliminary injury determination);
- Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination, 75 Fed. Reg. 10761 (Mar. 9, 2010) (USDOC preliminary CVD determination);
- Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia: Preliminary Determination of Sales at Less Than Fair Value and

Postponement of Final Determination, 75 Fed. Reg. 24885 (May 6, 2010) (USDOC preliminary AD determination);

- Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia: Final Affirmative Countervailing Duty Determination, 75 Fed. Reg. 59209 (Sept. 27, 2010) (USDOC final CVD determination).
- Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia: Final Determination of Sales at Less Than Fair Value, 75 Fed. Reg. 59223 (Sept. 27, 2010) (USDOC final AD determination).
- Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from China and Indonesia, 75 Fed. Reg. 70289 (Nov. 17, 2010) (USITC final threat of injury determination);
- Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia: Countervailing Duty Order, 75 Fed. Reg. 70206 (Nov. 17, 2010) (CVD order);
- Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia: Antidumping Duty Order, 75 Fed. Reg. 70205 (Nov. 17, 2010) (AD order).

The following U.S. law:

- Section 771(11)(B) of the Tariff Act of 1930, as amended, codified at Title 19 of the United States Code, Section 1677(11)(B).

The United States' imposition of anti-dumping and countervailing duty orders appears to be inconsistent with at least the following provisions of WTO law:

- With respect to USDOC's determination that the Government of Indonesia's allegedly provided standing timber for less than adequate remuneration, banned log exports, Article 14(d) of the SCM Agreement because, inter alia, the USDOC made a per se determination of price distortion based on purported government intervention and did not determine the adequacy of remuneration "in relation to prevailing market conditions for the good . . . in question in the country of provision".
- With respect to USDOC's determination that the Government of Indonesia's allegedly provided standing timber for less than adequate remuneration, banned log exports, and forgave debt, Article 2.1(c) of the SCM Agreement, inter alia, because USDOC did not examine whether there was a plan or scheme in place sufficient to constitute a "subsidy programme."
- With respect to USDOC's determination that the Government of Indonesia's allegedly provided standing timber for less than adequate remuneration, banned log exports, and forgave debt, Article 2.1 of the SCM Agreement, inter alia, because USDOC did not identify whether the entity providing the purported subsidy was the national, regional, or local government and, thus, USDOC failed to properly examine whether the subsidy was "specific to an enterprise . . . within the jurisdiction of the granting authority".
- With respect to USDOC determination that the Government of Indonesia's allegedly forgave debt, Article 12.7 of the SCM Agreement, inter alia, because USDOC applied adverse facts available without examining information that the Government of Indonesia had provided and without examining whether the Government of Indonesia had "refused access to, or otherwise did not provide" the information.
- With respect to USITC's threat of injury determination, Article 3.7 of the AD Agreement and Article 15.7 of the SCM Agreement, inter alia, because USITC relied on "allegation, conjecture [and] remote possibility" rather than facts.

- With respect to USITC's threat of injury determination, Article 3.7 of the AD Agreement and Article 15.7 of the SCM Agreement, *inter alia*, because USITC did not base its determination on a change in circumstances that was "clearly foreseen and imminent."
- With respect to USITC's threat of injury determination, Article 3.5 of the AD Agreement and Article 15.5 of the SCM Agreement, *inter alia*, because USITC did not demonstrate the existence of a causal relationship between the imports and the purported threat of injury to the domestic industry.
- With respect to USITC's threat of injury determination, Article 3.8 of the AD Agreement and Article 15.8 of the SCM Agreement, *inter alia*, because USITC did not consider or exercise "special care."
- With respect to 19 U.S.C. § 1677(11)(B)'s requirement that a tie vote in a threat of injury determination must be treated as an affirmative USITC determination, Article 3.8 of the AD Agreement and Article 15.8 of the SCM Agreement, *inter alia*, because the law does not consider or exercise "special care."

The United States' measures discussed above are also inconsistent with Article 1 of the AD Agreement, Article 10 of the SCM Agreement and Article VI of the GATT 1994 as a consequence of the apparent breaches of the AD Agreement and SCM Agreement described above.

Indonesia reserves the right to raise additional factual issues or legal claims or matters during the course of consultations and in any request for the establishment of a panel.

Indonesia looks forward to receiving the United States' response to this request in order to set a mutually convenient date and venue for consultations.

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