

**CHINA - MEASURES IMPOSING ANTI-DUMPING DUTIES ON
HIGH-PERFORMANCE STAINLESS STEEL SEAMLESS TUBES ("HP-SSST")
FROM JAPAN**

Request for Consultations by Japan

The following communication, dated 20 December 2012, from the delegation of Japan to the delegation of China and to the Chairperson of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

Upon instructions from my authorities, I hereby request, on behalf of the Government of Japan ("Japan"), consultations with the Government of the People's Republic of China ("China") pursuant to Articles 1 and 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes*, Article XXII:1 of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994"), and Articles 17.2 and 17.3 of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* ("AD Agreement") with respect to China's measures imposing anti-dumping duties on high-performance stainless steel seamless tubes ("HP-SSST") from Japan, as set forth in Ministry of Commerce of the People's Republic of China ("MOFCOM") Notice No. 21 [2012] and Notice No. 72 [2012], including any and all annexes and any amendments thereof.

These measures at issue appear to be inconsistent with China's obligations under, among others, the following provisions of the GATT 1994 and the AD Agreement:

1. Articles 3.1 and 3.2 of the AD Agreement because China's analysis of the volume effects and price effects of imports under investigation did not involve an objective examination based on positive evidence.
2. Articles 3.1 and 3.4 of the AD Agreement because China's analysis of the impact of subject imports under investigation on the domestic industry at issue did not involve an objective examination based on positive evidence, including an evaluation of all relevant economic factors and indices having a bearing on the state of the domestic industry.
3. Articles 3.1 and 3.5 of the AD Agreement because China's determination of a causal relationship did not involve an objective examination based on positive evidence, in particular:
 - (a) China's demonstration of the alleged causal relationship between subject imports and the alleged injury to the domestic industry was not based on an objective examination of all relevant evidence before the authorities and of any known factors other than subject imports allegedly injuring the domestic industry; and
 - (b) China failed to meet the requirement that injuries caused by other factors must not be attributed to the alleged dumped imports.

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4. Articles 5.3 and 5.8 of the AD Agreement because China initiated the investigation without sufficient evidence.

5. Articles 6.5 and 6.5.1 of the AD Agreement because:

- (a) China treated information the applicants supplied as confidential without showing good cause;
- (b) China failed to require the applicants to furnish non-confidential summary thereof; and
- (c) where such summaries were provided, they were not in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence.

6. Article 6.9 of the AD Agreement because China failed to inform the interested parties of the essential facts under consideration which form the basis for the decision to impose definitive anti-dumping measures.

7. Articles 12.2 and 12.2.2 of the AD Agreement because China failed to provide in sufficient detail the findings and conclusions reached on all issues of fact and law the investigating authorities considered material, as well as all relevant information on the matters of fact and law and reasons which have led to the imposition of final measures.

8. Article 7.4 of the AD Agreement because China applied provisional measures for a period exceeding four months without a request by exporters representing a significant percentage of the trade involved or examining whether a duty lower than the margin of dumping would be sufficient to remove injury.

9. Articles 6.8, including Annex II paragraph 1, 6.9, 12.2 and 12.2.2 of the AD Agreement, because, with respect to the determination of the dumping margin for all other Japanese companies:

- (a) China improperly applied facts available;
- (b) China did not fully disclose the essential facts under consideration which form the basis for the decision to impose definitive anti-dumping measures; and
- (c) China failed to make available all relevant information on the matters of fact and law and reasons which have led to the imposition of final measures.

10. China's anti-dumping measures on HP-SSST from Japan also appear to be inconsistent with Article 1 of the AD Agreement and Article VI of the GATT 1994 as a consequence of the apparent breaches of the AD Agreement described above.

China's measures also appear to nullify or impair the benefits accruing to Japan directly or indirectly under the cited agreements.

Japan reserves the right to address additional measures and claims under other provisions of the WTO Agreement regarding the above matters during the course of the consultations.

We look forward to receiving your reply to the present request and to fixing a mutually convenient date for consultations in Geneva.
