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**UNITED STATES – ANTI-DUMPING AND COUNTERVAILING DUTIES ON CERTAIN
PRODUCTS AND THE USE OF FACTS AVAILABLE**

REQUEST TO JOIN CONSULTATIONS

Communication from the Republic of Kazakhstan

The following communication, dated 1 March 2018, from the delegation of the Republic of Kazakhstan to the delegation of the United States, the delegation of the Republic of Korea and to the Chairperson of the Dispute Settlement Body, is circulated in accordance with Article 4.11 of the DSU.

I wish to refer to the consultations requested by the Republic of Korea pursuant to Articles 1 and 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Article XXII:1 of the General Agreement on Tariffs and Trade 1994 (GATT 1994), Articles 17.2 and 17.3 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 and Article 30 of the Agreement on Subsidies and Countervailing Measures in the communication circulated to WTO Members on 20 February 2018 (WT/DS539/1, G/L/1211, G/ADP/D124/1, G/SCM/D118/1) titled "*United States – Anti-dumping Countervailing Duties on Certain Products and the Use of Facts Available (DS539)*". My authorities have instructed me to notify the consulting Members and the Dispute Settlement Body of the desire of the Republic of Kazakhstan to join these consultations, pursuant to the Article 4.11 of the DSU.

In this dispute, Korea challenges the practice of the USDOC use of "adverse facts available" as a rule or norm of general and prospective application when a producer or exporter is found to have failed to cooperate by not acting to the best of its ability.

Kazakhstan has a substantial interest with respect to application and use of the relevant WTO provisions since Kazakhstan's exports are currently under similar antidumping and countervailing investigations, in which USDOC has taken a preliminary determination based on "adverse facts available".
