



18 June 2013

(13-3169)

Page: 1/2

Original: English

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

**REQUEST FOR CONSULTATIONS BY THE EUROPEAN UNION**

The following communication, dated 13 June 2013, from the delegation of the European Union 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.

---

My authorities have instructed me to request 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* ("DSU"), 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 certain high-performance stainless steel seamless tubes ("HP-SSST") from the European Union, as set forth in Ministry of Commerce of the People's Republic of China ("MOFCOM") Notice No. 21 [2012] (the "Preliminary Determination notice") and Notice No. 72 [2012] (the "Final Determination notice"), including any and all annexes and any amendments thereof.

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

1. Article 2.2 of the AD Agreement because China did not determine the costs of production and the amounts for administrative, selling and general costs on the basis of records and actual data by the exporters or producers under investigation.
2. Article 2.4 and Article 2.4.2 of the AD Agreement because China did not establish the existence of margins of dumping on the basis of a fair comparison between the export price and the normal value.
3. Articles 3.1 and 3.2 of the AD Agreement because China's injury determination was not based on positive evidence and did not involve an objective examination of the volume of the dumped imports under investigation and the effect of those imports on prices in the domestic market for like products.
4. Articles 3.1 and 3.4 of the AD Agreement because China's injury determination was not based on positive evidence, did not involve an objective examination of the consequent impact of these imports on domestic producers of such products and improperly failed to evaluate or disregard relevant economic factors and indices having a bearing on the state of the industry indicating that the domestic industry did not suffer injury.
5. Articles 3.1 and 3.5 of the AD Agreement because China failed to conduct an objective examination, based on positive evidence, of the causal relationship between the imports under investigation and the alleged injury to the domestic industry. China also failed to conduct an objective examination, based on positive evidence, of factors other than the imports under

investigation which at the same time are injuring the domestic industry, and therefore improperly attributed the injuries caused by these other factors to the imports under investigation.

6. Article 6.4 of the AD Agreement because China failed to disclose to the interested parties all information that is relevant to the presentation of their cases used to establish the margins of dumping and the effect of imports under investigation on prices of domestic market for like products.

7. Article 6.5 of the AD Agreement because China treated as confidential, without showing good cause, information supplied by the applicants.

8. Article 6.5.1 of the AD Agreement because China failed to require the applicants to furnish non-confidential summaries which provided sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence by the applicants.

9. Article 6.7 of the AD Agreement and paragraph 7 of Annex I to the AD Agreement because China refused to take into account information provided during the on-the-spot investigation.

10. Article 6.8 of the AD Agreement and paragraph 3 of Annex II to the AD Agreement because China failed to take into account all information pertaining to the determination of the margins of dumping which was verifiable, which was appropriately submitted so that it could have been used in the investigation without undue difficulties and which was supplied in a timely fashion.

11. Article 6.8 of the AD Agreement and paragraph 1 of Annex II to the AD Agreement because China improperly relied on facts available to determine the margin of dumping for all European Union companies other than those for which individual margins of dumping were determined.

12. 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, including the essential facts underlying the determinations of the existence of dumping and the calculation of the margins of dumping and the determinations of injury and causation.

13. Article 7.4 of the AD Agreement because China applied provisional measures for a period exceeding four months.

14. 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 considered material by the investigating authorities, as well as all relevant information on the matters of fact and law and reasons which have led to the imposition of final measures.

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

China's measures, therefore, appear to nullify or impair benefits accruing to the European Union directly or indirectly under the cited agreements.

The European Union reserves the right to address additional measures and claims regarding the above matters in the course of the consultations.

The European Union looks forward to receiving China's reply in due course to this request for consultations. The European Union is ready to consider with China mutually convenient dates and modalities for organising the consultations.

---