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MOROCCO - ANTI-DUMPING MEASURES ON CERTAIN HOT-ROLLED STEEL FROM TURKEY

REQUEST FOR CONSULTATIONS BY TURKEY

The following communication, dated 3 October 2016, from the delegation of Turkey to the delegation of Morocco and to the Chairperson of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

Pursuant to Article 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes*, Article 17.3 of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* (the "Anti-Dumping Agreement"), Article XXIII:1 of the *General Agreement on Tariffs and Trade 1994* (the "GATT 1994"), and Article 6 of the *Agreement on Import Licensing Procedures* (the "Import Licensing Agreement"), the Government of the Republic of Turkey requests consultations with the Kingdom of Morocco with respect to the imposition of definitive anti-dumping measures by Morocco on imports of certain hot-rolled steel products from Turkey, and with respect to certain aspects of the investigation underlying those measures.¹

Turkey is particularly concerned about the following aspects of the measures at issue:

1. Duration of the Investigation: The Moroccan authorities failed to conclude the investigation within the maximum 18-month deadline contained in Article 5.10 of the Anti-Dumping Agreement and therefore acted inconsistently with this provision.
2. Use of Facts Available to Determine Dumping Margins: The Moroccan authorities' stated reason for applying facts available to the Turkish exporters was that they had failed to report all of their sales to Morocco during the investigation period, as the authorities allegedly identified discrepancies in the data. However, the Moroccan authorities appear to have failed to provide the Turkish exporters with an opportunity to explain the alleged discrepancies, failed to take into account evidence in the record regarding these discrepancies, and applied facts available to determine the dumping margins of the Turkish exporters without using "special circumspection". The Moroccan authorities' decision to reject the exporters' questionnaire responses and determine dumping margins on the basis of facts available is therefore inconsistent with Article 6.8 and paragraphs 1, 3, 5, 6, and 7 of Annex II to the Anti-Dumping Agreement.
3. Disclosure of Essential Facts: The Moroccan authorities acted inconsistently with Article 6.9 of the Anti-Dumping Agreement by failing to disclose essential facts with respect to the decision to use facts available.

¹ Morocco initiated the investigation at issue on 21 January 2013. This is also the date of initiation listed by Morocco in its Semi-Annual Report to the WTO Committee on Anti-Dumping Practices under Article 16.4 of the Anti-Dumping Agreement, G/ADP/N/259/MAR, dated 15 October 2014, at 3. The definitive measures were published in Morocco's Official Journal No. 6294 of 25 September 2014, and came into force on 26 September 2014. They were notified to the WTO Committee on Anti-Dumping Practices in G/ADP/N/272/MAR, dated 6 October 2015, at 5.

4. Import Restrictions: The use by the Moroccan authorities of registration/licensing requirements and the failure of the Moroccan authorities to issue import licenses following the imposition of provisional anti-dumping measures appears to be an additional impermissible "specific action against dumping" that is inconsistent with Article 18.1 of the Anti-Dumping Agreement. Moreover, this measure appears to be inconsistent with Articles I:1, X:1, X:2, X:3(a) and XI:1 of the GATT 1994 and Articles 3.2 and 3.3 of the Import Licensing Agreement.
5. Injury/Causation Determination: The Moroccan authorities failed to provide a reasoned and adequate explanation of their finding of injury and causation and therefore acted inconsistently with Articles 3.1, 3.2, 3.4, and 3.5 of the Anti-Dumping Agreement.

Turkey considers that Morocco's investigation and definitive measures 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. In addition to the legal instruments embodying the measures at issue, this request also covers any amendments, extensions, related instruments, and practices. Turkey reserves the right to raise additional legal claims or matters during the course of consultations.

Turkey looks forward to receiving your response to this request. I propose that the date and venue of the consultations be agreed between our two Missions.
