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**CANADA – ANTI-DUMPING MEASURES ON IMPORTS OF CERTAIN CARBON STEEL
WELDED PIPE FROM THE SEPARATE CUSTOMS TERRITORY OF
TAIWAN, PENGHU, KINMEN AND MATSU**

**REQUEST FOR CONSULTATIONS BY THE SEPARATE CUSTOMS TERRITORY
OF TAIWAN, PENGHU, KINMEN AND MATSU**

The following communication, dated 25 June 2014, from the delegation of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu to the delegation of Canada 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 Canada pursuant to Articles 1 and 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), Article XXII of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994") and Article 17 of the *Agreement on Implementation of Article VI of the GATT 1994* ("Anti-Dumping Agreement") with respect to the provisional¹ and definitive² anti-dumping measures imposed by Canada on imports of Certain Carbon Steel Welded Pipe (CSWP) originating in, among others, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, and the investigations³ underlying the measures. These measures appear to be inconsistent with the obligations of Canada under the following provisions of the GATT 1994 and the Anti-Dumping Agreement:

1. Articles 3.1 and 3.5 of the Anti-Dumping Agreement, because
 - i. Canada failed to make an objective examination on the basis of positive evidence that the dumped imports are, through the effects of dumping, causing injury and/or a threat of injury to the domestic industry;
 - ii. Canada failed to examine any known factors other than the allegedly dumped imports which at the same time were injuring the domestic industry, such as the existing overcapacity of the domestic industry and subsidized imports from India;
 - iii. Canada failed to ensure that the injuries caused by such other factors were not attributed to the allegedly dumped imports.

¹ The provisional measures were imposed on 13 August 2012 after a preliminary injury determination made by the Canada International Trade Tribunal, issued on 13 July 2012, and a preliminary determination of dumping made by the Canada Border Services Agency on 13 August 2012.

² The definitive measures were imposed following the final dumping determination of the Canada Border Services Agency of 9 November 2012 and the finding of the Canada International Trade Tribunal, made on 11 December 2012, that dumped imports of certain CSWP originating in, among others, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu were threatening to cause injury to the Canadian domestic industry (C. Gaz. 2012.I.146.51).

³ The Canada Border Services Agency issued a notice of initiation of the dumping investigation on 14 May 2012 and the Canada International Trade Tribunal issued a notice of commencement of a preliminary injury inquiry on 15 May 2012 (C. Gaz. 2012.I.1382). On 14 August 2012, the Canada International Trade Tribunal issued a notice of commencement of inquiry (C. Gaz. 2012.I.2523). On 7 January 2013, the Canada Border Services Agency initiated a re-investigation to update the normal values and export prices of certain CSWP originating in, among others, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, which was concluded on 7 May 2013.

2. Article 5.8 of the Anti-Dumping Agreement because Canada failed to immediately terminate the investigation with respect to those exporters whose margins of dumping are *de minimis* within the meaning of that provision.
3. Article 6.10 of the Anti-Dumping Agreement because Canada failed to determine only one individual margin of dumping for each exporter in its determination of whether to continue the investigation and the subsequent determination of duty rates.
4. Articles 3.1, 3.2, 3.4, 3.5 and 3.7 of the Anti-Dumping Agreement because, for the purpose of the injury analysis, Canada failed to exclude from the volume of dumped imports, the imports of exporters with a *de minimis* dumping margin. By not excluding these imports from the volume of dumped imports, Canada failed to properly consider the volume of dumped imports, the effects of the dumped imports on prices in the domestic market, the impact of the dumped imports on the domestic industry and whether the dumped imports are causing injury and/or threat of injury to the domestic industry.
5. Article 6.8 and Annex II of the Anti-Dumping Agreement because Canada applied facts inconsistent with the "best information available" principles in determining the duty rate applicable to "all other exporters" from the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

The anti-dumping measures of Canada applicable to certain CSWP originating in the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu also appear to be inconsistent with Articles 1 and 18 of the Anti-Dumping Agreement and Article VI of the GATT 1994 as a consequence of the above-mentioned violations.

The above measures of Canada, therefore, appear to nullify or impair benefits accruing to the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu directly or indirectly under the cited agreements.

The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu reserves the right to address additional measures and claims regarding the above matters, including any amendment, replacement, extension, implementing measures or other related measures, in the course of the consultations.

The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu looks forward to receiving the response of Canada to this request and to scheduling a mutually convenient date and venue for the consultations.
