



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

**REQUEST FOR THE ESTABLISHMENT OF A PANEL BY THE EUROPEAN UNION**

The following communication, dated 16 August 2013, from the delegation of the European Union to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

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On 13 June 2013, the European Union requested 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* ("Anti-Dumping Agreement") with regard to China's measures imposing anti-dumping duties on certain high-performance stainless steel seamless tubes ("HP-SSST") from the European Union.<sup>1</sup> These measures are set out in Ministry of Commerce 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 European Union held consultations with China on 17 and 18 July 2013. These consultations did not resolve the dispute.

The European Union considers that the measures at issue are inconsistent with China's obligations under the following provisions of the GATT 1994 and the Anti-Dumping Agreement:

1. Articles 2.2, 2.2.1, 2.2.1.1 and 2.2.2 of the Anti-Dumping Agreement because China did not determine the amounts for administrative, selling and general costs and for profits on the basis of records and actual data by the exporters or producers under investigation. In particular, the amounts for administrative, selling and general costs and for profits as constructed by China do not reflect the records and the actual data of the exporters or producers under investigation.
2. Article 2.4 and Article 2.4.2 of the Anti-Dumping 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. In particular, China did not establish the existence of margins of dumping on the basis of a comparison of prices of comparable export transactions.
3. Articles 3.1 and 3.2 of the Anti-Dumping 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. In particular, in its price effects analyses, China failed to conduct proper analyses with respect to the three different types of HP-SSST products under investigation and the HP-SSST products as a whole. China improperly concluded that the imports under investigation had an overall significant effect on the prices of like domestic products.

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<sup>1</sup> WT/DS460/1.

4. Articles 3.1 and 3.4 of the Anti-Dumping Agreement because China's analysis of the impact of the dumped imports on the domestic industry: (i) failed to make an objective examination, based on positive evidence, of the impact of subject imports on the domestic industry based on the volume of such imports and their effect on prices; (ii) failed to evaluate factors affecting domestic prices and the magnitude of the margin of dumping; and (iii) failed to objectively determine the relative importance and weight to be attached to the relevant economic factors and indices, and improperly disregarded the majority of those factors and indices indicating that the domestic industry did not suffer injury.

5. Articles 3.1 and 3.5 of the Anti-Dumping 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 determined that the allegedly dumped imports are causing injury despite an absence of a significant increase in the volume of dumped imports, based on improper price effects analyses and based on flawed impact analyses, including improper evaluation of or failure to consider relevant economic factors and indices having a bearing on the state of the domestic industry. Furthermore, China failed to conduct an objective examination, based on positive evidence, of factors other than the imports under investigation which are at the same time 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 Anti-Dumping Agreement because China failed to disclose to the interested parties all information that is relevant to the presentation of their cases and that is used by the authorities in an anti-dumping investigation, in particular used to establish the margins of dumping, including the calculation of the margin of dumping, and the effect of imports under investigation on prices of domestic market for like products.

7. Article 6.5 of the Anti-Dumping Agreement because China treated as confidential, without good cause shown, information supplied by the applicants.

8. Article 6.5.1 of the Anti-Dumping Agreement because China failed to require the applicants to furnish (i) non-confidential summaries of information that was treated as confidential which provided sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence; or (ii) explanations as to why furnishing such summaries was not possible.

9. Article 6.7 of the Anti-Dumping Agreement and paragraph 7 of Annex I to the Anti-Dumping Agreement because China refused to take into account information relevant for the determination of the margins of dumping provided during the on-the-spot investigation.

10. Article 6.8 of the Anti-Dumping Agreement and paragraphs 3 and 6 of Annex II to the Anti-Dumping 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 Anti-Dumping Agreement and paragraph 1 of Annex II to the Anti-Dumping 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 Anti-Dumping 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, including relevant data, and the determinations of injury and causation, including the import prices and domestic prices used therein.

13. Article 7.4 of the Anti-Dumping Agreement because China applied provisional measures on the imports under investigation for a period exceeding four months.

14. Articles 12.2 and 12.2.2 of the Anti-Dumping 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 Anti-Dumping Agreement and Article VI of the GATT 1994 as a consequence of the breaches of the Anti-Dumping Agreement described above.

China's measures, therefore, nullify and impair benefits accruing to the European Union under the Anti-Dumping Agreement and the GATT 1994.

Accordingly, the European Union respectfully requests that, pursuant to Article XXIII of the GATT 1994, Articles 4.7 and 6 of the DSU and Article 17.4 of the Anti-Dumping Agreement, the Dispute Settlement Body establish a panel to examine this matter, with the standard terms of reference as set out in Article 7.1 of the DSU.

The European Union asks that this request be placed on the agenda for the meeting of the Dispute Settlement Body to be held on 30 August 2013.

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