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## INDONESIA – SAFEGUARD ON CERTAIN IRON OR STEEL PRODUCTS

### NOTIFICATION OF AN OTHER APPEAL BY THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU UNDER ARTICLES 16.4 AND 17 OF THE UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES (DSU), AND UNDER RULE 23(1) OF THE WORKING PROCEDURES FOR APPELLATE REVIEW

The following communication, dated 3 October 2017, from the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, is being circulated to Members.

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Pursuant to Articles 16.4 and 17 of the DSU, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu hereby notifies to the Dispute Settlement Body its decision to appeal to the Appellate Body certain issues of law covered in the Panel Report and certain legal interpretations developed by the Panel in the dispute *Indonesia – Safeguard on Certain Iron or Steel Products* (WT/DS490; WT/DS496). Pursuant to Rule 23(1) of the Working Procedures for Appellate Review, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu simultaneously files this Notice of Other Appeal, the Other Appellant Submission and the executive summary thereof with the Appellate Body Secretariat.

For the reasons to be further elaborated in its submissions to the Appellate Body, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu appeals, and requests that the Appellate Body *reverse* the findings and conclusions of the Panel, with respect to the following errors contained in the Panel Report:<sup>1</sup>

The Panel erred in the interpretation and application of Article 1 of the Agreement on Safeguards, Article XIX:1(a) of GATT 1994 and other relevant provisions when finding that the specific duty imposed by Indonesia is not a safeguard measure. As a result, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu requests that the Appellate Body *reverse* the Panel's findings in paragraphs 7.40-41 and 8.1(a) of its report, which are based on its legally erroneous reasoning in paragraphs 7.10, 7.12-17 and 7.32.

Moreover, in the event that the Appellate Body finds that the specific duty imposed by Indonesia is a safeguard measure within the meaning of Article 1 of the Agreement on Safeguards, and reverses the Panel's relevant findings and conclusions, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu requests that the Appellate Body complete the analysis of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu's claims under the Agreement on Safeguards and Articles XIX:1(a) and XIX:2 of GATT 1994.

Lastly, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu submits that the Appellate Body should leave the Panel's finding contained in paragraphs 7.42-7.44 of the Panel Report that Indonesia's specific duty is inconsistent with Indonesia's MFN-treatment obligation under Article I:1 of the GATT 1994 undisturbed.

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<sup>1</sup> Pursuant to Rule 23(2)(c)(ii)(C) of the Working Procedures for Appellate Review, this Notice of Other Appeal includes an indicative list of the paragraphs of the Panel Report containing the alleged errors, without prejudice to the ability of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu to refer to other paragraphs of the Panel Report in the context of its other appeal.