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CANADA – ADDITIONAL DUTIES ON CERTAIN PRODUCTS FROM THE UNITED STATES

REQUEST FOR CONSULTATIONS BY THE UNITED STATES

The following communication, dated 16 July 2018, from the delegation of the United States to the delegation of Canada, is circulated to the Dispute Settlement Body in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request consultations with Canada pursuant to Article 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU") and Article XXIII of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994") with respect to Canada's imposition of increased duties with respect to certain products originating in the United States ("additional duties measure").

The additional duties measure does not impose the increased duties on like products originating in the territory of any other WTO Member, and thus appears inconsistent with the most-favored-nation obligation in Article I of the GATT 1994. The additional duties measure results in rates of duty greater than rates of duty set out in Canada's schedule of concessions, and thus appears inconsistent with Article II of the GATT 1994.

The legal instruments through which Canada imposes the additional duties measure include the following, operating separately or collectively:

- *Customs Notice 18-08 Surtaxes Imposed on Certain Products Originating in the United States*, Canada Border Services Agency, June 29, 2018;
- *Countermeasures in Response to Unjustified Tariffs on Canadian Steel and Aluminum Products*, Department of Finance Canada Press Release, June 29, 2018;
- *Notice of Intent to Impose Countermeasures Action against the United States in Response to Tariffs on Canadian Steel and Aluminum Products*, Department of Finance Canada Press Release, issued May 31, 2018;

as well as any amendments, replacements, related measures or implementing measures.

The additional duties measure appears to be inconsistent with:

- Article I:1 of the GATT 1994, because it fails to extend to products of the United States an advantage, favor, privilege or immunity granted by Canada with respect to customs duties and charges of any kind imposed on or in connection with the importation of products originating in the territory of other Members; and
- Article II:1(a) and (b) of the GATT 1994, because it accords less favorable treatment to products originating in the United States than that provided for in Canada's schedule of concessions.

The additional duties measure appears to nullify or impair the benefits accruing to the United States directly or indirectly under the GATT 1994.

We look forward to receiving your reply to the present request and to fixing a mutually convenient date to hold consultations.
