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**EUROPEAN UNION – ADDITIONAL DUTIES ON CERTAIN PRODUCTS FROM
THE UNITED STATES**

REQUEST FOR THE ESTABLISHMENT OF A PANEL BY THE UNITED STATES

The following communication, dated 18 October 2018, from the delegation of the United States to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

On July 16, 2018, the United States requested consultations with the European Union ("EU") 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 the EU's imposition of additional duties on certain products originating in the United States ("additional duties measure").¹ The United States held consultations with the EU on August 28, 2018. Unfortunately, these consultations did not resolve the dispute.

The additional duties measure applies only to products originating in the United States. The additional duties measure does not apply to 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. Moreover, the additional duties measure results in rates of duty greater than the rates of duty set out in the EU's schedule of concessions, and thus appears inconsistent with Article II of the GATT 1994.

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

1. *Commission Implementing Regulation (EU) 2018/886 of 20 June 2018 on certain commercial policy measures concerning certain products originating in the United States of America and amending Implementing Regulation (EU) 2018/724*, Official Journal of the European Union, June 21, 2018;
2. *Commission Implementing Regulation (EU) 2018/724 of 16 May 2018 on certain commercial policy measures concerning certain products originating in the United States of America*, Official Journal of the European Union, May 17, 2018;

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

The additional duties measure appears to be inconsistent with the EU's obligations under:

- 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 the EU 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;
- Article II:1(a) of the GATT 1994 because it accords less favorable treatment to products originating in the United States than that provided for in the EU's schedule; and

¹ WT/DS559/1.

- Article II:1(b) of the GATT 1994 because it imposes duties or charges in excess of those set forth in the EU's schedule.

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

Accordingly, the United States respectfully requests pursuant to Article 6 of the DSU that 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.
