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**MOROCCO – DEFINITIVE ANTI-DUMPING MEASURES ON  
SCHOOL EXERCISE BOOKS FROM TUNISIA**

**REQUEST FOR CONSULTATIONS BY TUNISIA**

The following communication, dated 21 February 2019, from the delegation of Tunisia to the delegation of Morocco, is circulated to the Dispute Settlement Body in accordance with Article 4.4 of the DSU.

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The Tunisian Republic hereby requests consultations with the Kingdom of Morocco pursuant to Article XXIII:1 of the General Agreement on Tariffs and Trade 1994 ("GATT 1994"), Article 17.3 of the Agreement on Implementation of Article VI of the GATT 1994 ("Anti-Dumping Agreement") and Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU") with respect to the imposition of definitive anti-dumping measures by the Kingdom of Morocco on imports of school exercise books originating in Tunisia.

The anti-dumping measures were imposed by the Kingdom of Morocco through Customs and Excise Administration Circular No. 5895/211 dated 7 January 2019. The anti-dumping measures are based on: (i) public notice No. 13/18 of the Ministry of Industry, Investment, Trade and the Digital Economy dated 5 November 2018 and (ii) the final report by the Trade Defence and Regulation Directorate of the Secretariat of State for Foreign Trade on the determination of dumping, injury and a causal link following the corresponding investigation.<sup>1</sup>

In Tunisia's view, the above-mentioned measures appear to be inconsistent with the Kingdom of Morocco's obligations under the following provisions of the Anti-Dumping Agreement and the GATT 1994, amongst others:

1. Article 5.2, 5.3 and 5.8 of the Anti-Dumping Agreement, because the application filed by the domestic industry does not contain sufficient evidence of dumping, injury or a causal link and because the investigating authority did not conduct a satisfactory examination of the accuracy and adequacy of the evidence provided in the application;
2. Articles 1, 2.1, 3.1, 3.4, 3.5, 9 and 11.1 of the Anti-Dumping Agreement and Article VI:1 and VI:6(a) of the GATT 1994, because the determination of dumping and resulting injury was not based on relevant and "positive" evidence justifying the imposition of the measure at the time of its adoption;
3. Article 2.1, 2.2, 2.2.1.1 and 2.2.2 of the Anti-Dumping Agreement, because the investigating authority committed errors leading to the calculation of an artificially high normal value. In particular, but not exclusively:
  - (a) The authority did not calculate costs on the basis of records kept by the Tunisian producers for the investigation period, even though these records are in accordance with generally accepted accounting principles and reasonably reflect

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<sup>1</sup> Report AD-11.17. CAHIER.TUN

the costs associated with the production and sale of the product under consideration;

- (b) The authority did not determine the administrative, selling and general costs or profits on the basis of data pertaining to production and sales of the like product in the ordinary course of trade for the investigation period;
  - (c) The authority arbitrarily excluded sales in the ordinary course of trade, despite there being no particular market situation; and
  - (d) The authority improperly excluded a portion of domestic sales when determining sales in the ordinary course of trade;
- 4. Article 2.2 and 2.2.1 of the Anti-Dumping Agreement, because the investigating authority treated domestic sales of certain exercise books in Tunisia as not being in the ordinary course of trade by reason of price and disregarded these sales in determining the normal value, without prior determination that these sales were made: (a) within an extended period of time; (b) in substantial quantities; and (c) at prices which did not provide for the recovery of all costs within a reasonable period of time;
  - 5. Article 2.4 of the Anti-Dumping Agreement, because the investigating authority did not make allowance, in particular, for all the physical characteristics affecting price comparability and compared the normal value and the export price established for different periods;
  - 6. Article 2.4 of the Anti-Dumping Agreement, because the investigating authority made adjustments to the export price on the basis of data that had not been provided by the exporters, in particular, but not exclusively, port charges, ocean freight costs and international after-sales service;
  - 7. Article 3.1, 3.2, 3.4 and 3.5 of the Anti-Dumping Agreement and Article VI:1 and VI:6(a) of the GATT 1994, because the investigating authority failed to make a determination of injury based on positive evidence and involving an objective examination. In particular, but not exclusively, the period of investigation chosen for examining injury and the causal link does not allow for an objective examination of the situation;
  - 8. Article 3.1 and 3.2 of the Anti-Dumping Agreement, because, *inter alia*:
    - a. The investigating authority failed to properly and objectively consider the volume of the dumped imports, in absolute terms and relative to domestic production or consumption;
    - b. The undercutting margin was calculated on the basis of a reconstructed target sales price that does not correspond to the performance of the domestic industry. The profit margin of the Tunisian producers was used to construct the price of domestic products without examining whether the market conditions in Tunisia were similar to those in Morocco. The prices of imports and those of the domestic product were compared erroneously;
    - c. The analysis regarding the depression of sales prices and the prevention of price increases was not based on positive evidence and did not involve an objective examination;
  - 9. Article 3.1 and 3.4 of the Anti-Dumping Agreement, because the investigating authority failed to properly evaluate all relevant economic factors and indices having a bearing on the state of the domestic industry and to conduct an objective examination of the impact of the imports on the performance of domestic producers. Amongst other things, the authority made a finding of injury even though most factors had evolved positively and significantly during the investigation period;

10. Article 3.1 and 3.4 of the Anti-Dumping Agreement, because the investigating authority focused its analysis on different periods for each of the economic factors and indices, which led to an incorrect finding of injury;
11. Article 3.1 and 3.5 of the Anti-Dumping Agreement, because the investigating authority failed to properly determine a genuine and substantial relationship of cause and effect between the allegedly dumped imports and the injury to the domestic industry. The authority failed to ensure that injury caused by other factors was not attributed to imports originating in Tunisia. Most notably, but not exclusively, the authority failed to examine the causes of injury other than the imports originating in Tunisia, and, in particular, competition between Moroccan producers not part of the domestic industry and the importance of the informal market;
12. Article 4.1 of the Anti-Dumping Agreement (and Article 3.1 and 3.4 in a combined reading of these two Articles), because the investigating authority limited the "domestic industry" to the applicants and also wrongly excluded certain other companies that supported the application;
13. Article 5.10, because the investigation was not concluded within one year, despite the absence of special circumstances;
14. Article 6.5 and 6.5.1 of the Anti-Dumping Agreement, because the investigating authority: (a) treated as confidential the information provided by the applicants without showing good cause; (b) failed to require the applicants to furnish a non-confidential summary thereof; and (c) where such summaries were provided, they were not in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence;
15. Article 6.8 and paragraphs 1, 3, 5 and 6 of Annex II of the Anti-Dumping Agreement, because the investigating authority did not use the data and structure of the exporters' Excel files as provided by the exporters following the public hearing;
16. Article 12.2 and 12.2.2 of the Anti-Dumping Agreement, because the Kingdom of Morocco failed to provide in sufficient detail the findings and conclusions reached on all issues of fact and law considered material by the investigating authority, and all relevant information on the matters of fact and law and reasons which have led to the imposition of measures; and
17. Article 18.1 of the Anti-Dumping Agreement and Articles II:1(a) and (b) and VI:1 of the GATT 1994 insofar as the definitive anti-dumping measure or measures apply to products not subject to the anti-dumping investigation. In this case, these measures become "other duties or charges", and in any event are in excess of the bound rates provided for in the schedule annexed to the GATT 1994 containing the tariff commitments of the Kingdom of Morocco.

Tunisia reserves the right to raise additional factual or legal points related to the above-mentioned measures during the course of consultations and in any request for panel proceedings.

Tunisia looks forward to receiving in due course a reply from the Kingdom of Morocco to this request. Tunisia is ready to consider with the Kingdom of Morocco mutually convenient dates to hold consultations.

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