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UNITED STATES - ANTI-DUMPING MEASURES ON CARBON-QUALITY STEEL FROM RUSSIA

REQUEST FOR CONSULTATIONS BY THE RUSSIAN FEDERATION

The following communication, dated 5 July 2019, from the delegation of the Russian Federation to the delegation of the United States, 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 the United States of America ("United States") pursuant to Articles 1 and 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU"), Article XXIII:1 of the General Agreement on Tariffs and Trade 1994 ("GATT 1994"), and Article 17 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") with respect to anti-dumping measures imposed by the United States on hot-rolled flat-rolled carbon-quality steel products (hereinafter – hot-rolled steel) from the Russian Federation.

These anti-dumping measures were originally imposed, subsequently reviewed and are currently levied pursuant to:

- (1) *Notice of Preliminary Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation*, 64 Fed. Reg. 9312 (February 25, 1999);
- (2) *Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation*, 64 Fed. Reg. 38626 (July 19, 1999);
- (3) *Termination of the Suspension Agreement on Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation, Rescission of 2013–2014 Administrative Review, and Issuance of Antidumping Duty Order*, 79 Fed. Reg. 77455 (December 24, 2014);
- (4) *Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 81 Fed. Reg. 62094 (September 8, 2016);
- (5) *Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation: Continuation of Antidumping Duty Order*, 81 Fed. Reg. 72569 (October 20, 2016);
- (6) *Certain Hot-Rolled Carbon Steel Flat Products From the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review; 2014-2015*, 82 Fed. Reg. 1318 (January 5, 2017);
- (7) *Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 Fed. Reg. 31559 (July 7, 2017);
- (8) *Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review; 2016-2017*, 84 Fed. Reg. 4776, (February 19, 2019),

including any and all amendments and corrections, as well as any and all annexes, memoranda and any other documents underlying, supplementing and accompanying the abovementioned acts or referred to in them,

and

- (9) any other ongoing or future anti-dumping administrative reviews, and the preliminary and final results thereof, related to the imports of hot-rolled steel from Russia pursuant to case number A-821-809, amendments, replacements, extensions, related and implementing measures and any act of the United States that would affect the measures at issue, as well as any assessment instructions, cash deposit requirements, and revocation determinations, or other measures issued pursuant to such reviews.

The measures at issue appear to be inconsistent with the WTO obligations of the United States, in particular, under the following provisions of the Anti-Dumping Agreement and the GATT 1994:

1. Articles 9.1, 9.2, 9.3 and 9.4 of the Anti-Dumping Agreement and Article VI:2 of the GATT 1994 because the United States imposed anti-dumping duties at the level of the "all others" rate which exceeds the margin of dumping that should have been established under Article 2 of the Anti-Dumping Agreement.
2. Article 6.10 of the Anti-Dumping Agreement because the United States failed to determine an individual dumping margin for each known exporter or producer concerned of the product under investigation and instead relied on "all others" rate.
3. Articles 2.1 and 2.2 of the Anti-Dumping Agreement and Article VI:1 of the GATT 1994 because the United States failed to establish normal values based on the way enshrined in Article 2.1 of the Anti-Dumping Agreement or on any of the alternatives enshrined in Article 2.2 of the Anti-Dumping Agreement.
4. Article 2.2.1.1 of the Anti-Dumping Agreement because the United States failed to calculate the costs of production of the product under consideration as required by this Article.
5. Articles 2.1 and 2.4 of the Anti-Dumping Agreement because the United States compared export prices to normal values established in violation of Articles 2.1 and 2.2 of the Anti-Dumping Agreement.
6. Articles 11.1, 11.2, 2.1, 2.2 and 2.4 of Anti-Dumping Agreement because the United States failed to properly review the need for continued imposition of the anti-dumping duties and to terminate the duties that were not necessary to offset dumping.
7. Articles 11.1, 11.3, 2.1, 2.2 and 2.4 of the Anti-Dumping Agreement because the United States has extended the measures at issue relying on flawed dumping margins and on erroneous likelihood of recurrence or continuation of dumping determinations.
8. Article 6.8 of the Anti-Dumping Agreement because the United States refused to rely on information provided by Russian exporters, whereas the conditions to resort to facts available were not met.
9. Articles 1, 18.1 of the Anti-Dumping Agreement and Articles VI:1 and VI:2 of the GATT 1994 as a consequence of the breaches of the Anti-Dumping Agreement described above.

The above-mentioned United States' measures appear to nullify or impair the benefits accruing to Russia directly or indirectly under the cited agreements.

Russia reserves the right to raise additional factual and legal issues, and to address additional measures and claims regarding the above matters, in the course of the consultations and in any request for the establishment of a panel.

The Russian Federation looks forward to receiving the reply of the United States to the present request and to fixing a mutually convenient date to hold consultations.
