

EGYPT – ANTI-DUMPING DUTIES ON MATCHES FROM PAKISTAN

Request for Consultations by Pakistan

The following communication, dated 21 February 2005, from the delegation of Pakistan to the delegation of Egypt and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request consultations with the Arab Republic of Egypt ("Egypt") pursuant to Article 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") and Article 17 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the "AD Agreement") with respect to the imposition of definitive anti-dumping duties on imports of matches in boxes from Pakistan under Decree No. 667/2003 dated 18 November 2003, as well as any amendments or extensions to this Decree.

2. These measures appear to be inconsistent with Egypt's obligations under the GATT and the AD Agreement. Pakistan is particularly concerned about the following aspects of the imposition of these anti-dumping duties and the investigation leading thereto:

- (1) Egypt's failure to furnish the application to the known Pakistani exporters and the Government of Pakistan (Articles 6.1.3 and 6.4 of the AD Agreement).
- (2) Egypt's granting of confidential treatment to information contained in the domestic industry's application without requiring the applicants to provide showing of good cause for such a treatment and without requiring the applicants to furnish non-confidential summaries "in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence", or to give any indication that such information could not be summarized and the reasons why summarization was not possible (Article 6.5, Article 6.5.1 and Article 6.5.2 of the AD Agreement).
- (3) Egypt's failure to disclose the essential facts under consideration that formed the basis of the decision to impose definitive measures in Egypt's Essential Facts and Conclusions Report and to provide the Pakistani exporters a full opportunity to defend their interests while taking due account of the difficulties faced by them (Article 6.2, Article 6.4, Article 6.9 and Article 6.13 of the AD Agreement).
- (4) In its determination of dumping:
 - (i) Egypt's resort to constructed value to determine the normal value for the Pakistani exporter Mohsin Match Factory (Pvt.) Ltd. ("Mohsin") without properly establishing

that no sales of the like product were made in the ordinary course of trade or that domestic sales do not permit a proper comparison (Article VI:1 of the GATT, and Article 2.1, Article 2.2, and Article 6.8 read with Annex II of the AD Agreement).

- (ii) Egypt's failure to use actual data from the Pakistani exporter Khyber Match Factory (Pvt) Ltd. ("Khyber") in calculating the administrative, selling, and general costs ("SG&A costs") and profits for this company in the context of constructing its normal value (Article VI:1 of the GATT, and Article 2.2, Article 2.2.1.1, Article 2.2.2, and Article 6.8 read with Annex II of the AD Agreement).
 - (iii) Egypt's failure to use a reasonable method to calculate SG&A costs and profits for Khyber and Mohsin (Article 2.2.2 and Article 6.8 read with Annex II of the AD Agreement).
 - (iv) Egypt's failure to properly determine the constructed normal value for Khyber and Mohsin (Article VI:1 and Article VI:2 of the GATT, and Article 2.1, Article 2.2 and Article 6.8 read with Annex II of the AD Agreement).
 - (v) Egypt's failure to properly determine the export price for Khyber and Mohsin (Article VI:1 and VI:2 of the GATT, and Article 2.1 and Article 2.2 of the AD Agreement).
 - (vi) Egypt's failure to make a fair comparison between the normal value and the export price for Khyber and Mohsin, including, Egypt's failure to make a due allowance for the duty drawback claimed by both companies (Article VI:1 and Article 2.4 of the AD Agreement).
- (5) In its determination of the existence of material injury to the domestic industry:
- (i) Egypt's failure to base its examination of the volume of the dumped imports, the effect of the dumped imports on prices in the domestic market and the consequent impact of these imports on domestic producers on positive evidence because of its reliance on inaccurate information regarding the volume of dumped imports (Article 3.1, Article 3.2 and Article 6.6 of the AD Agreement).
 - (ii) In its analysis of price effects, Egypt's failure to examine whether the dumped imports resulted in *significant* undercutting, suppression or depression of domestic prices (Article 3.1 and Article 3.2 of the AD Agreement).
 - (iii) Egypt's failure to base its examination of the impact of the dumped imports on the domestic industry on positive evidence regarding the relevant economic factors and indices having a bearing on the state of the industry; in particular, Egypt's evaluation of the market share of the domestic industry based on inflated figures for total market volume resulting from inaccurate estimates of the volume of imports from Pakistan (Article 3.1, Article 3.4 and Article 6.6 of the AD Agreement).
 - (iv) Egypt's reliance on information collected from only one domestic producer to analyse certain economic factors and indices having a bearing on the state of the domestic industry, despite the participation of other domestic producers in the investigation (Article 3.1 and 3.4 of the AD Agreement).

- (6) In its determination that there is a causal link between the alleged dumping and the alleged material injury to the domestic industry, Egypt's failure to examine any known factors other than dumped imports which at the same time were injuring the domestic industry; including Egypt's failure to examine *inter alia*: (i) the impact of imports from third countries on the domestic industry, (ii) the effects of the removal of a safeguard measure on the products subject to investigation; and (iii) the effects of financial and managerial difficulties faced by the largest domestic producer (Article 3.1 and 3.5 of the AD Agreement).
- (7) Egypt's failure to provide in the final report containing the determination of dumping, injury and causal link all relevant information on the matters of fact and law and reasons, which led to the imposition of the definitive anti-dumping duty (Article 12.2 and Article 12.2.2 of the AD Agreement).

3. It appears to Pakistan that the foregoing cannot be reconciled with Article VI of the GATT, Articles 1 and 18 of the AD Agreement, and the specific provisions of the AD Agreement cited above. Pakistan considers that the benefits accruing to it directly or indirectly under the WTO Agreement may be nullified or impaired within the meaning of Article XXIII:1(a) of the GATT.

4. Pakistan looks forward to receiving your reply to this request at your earliest convenience. I propose that the date and venue of these consultations be agreed between our two Missions.
