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**EUROPEAN UNION - PROVISIONAL ANTI-DUMPING DUTY ON MONO-ETHYLENE GLYCOL
FROM SAUDI ARABIA**

REQUEST FOR CONSULTATIONS BY THE KINGDOM OF SAUDI ARABIA

The following communication, dated 17 August 2021, from the delegation of the Kingdom of Saudi Arabia to the delegation of the European Union, is circulated to the Dispute Settlement Body in accordance with Article 4.4 of the DSU.

1. My authorities have instructed me, on behalf of the Kingdom of Saudi Arabia, to request consultations with the European Union pursuant to Articles 1 and 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU"), Article XXII:1 of the General Agreement on Tariffs and Trade ("GATT") 1994, and Articles 17.2 and 17.3 of the Agreement on Implementation of Article VI of the GATT 1994 ("Anti-Dumping Agreement"), with respect to the European Union's provisional anti-dumping duty on imports of mono-ethylene glycol originating in the Kingdom of Saudi Arabia of 10 June 2021,¹ as well as any amendments thereto or extensions thereof, and any related measures.

2. The provisional anti-dumping duty was imposed pursuant to an investigation that was initiated by the European Commission ("Commission") on 14 October 2020,² and the provisional duty entered into force on 12 June 2021 for a period of six months.³

3. This measure appears to be inconsistent with the European Union's obligations under certain provisions of the GATT 1994 and the Anti-Dumping Agreement. In particular, the Kingdom of Saudi Arabia considers that the measure appears to be inconsistent with at least the following provisions:

- Articles 5.2, 5.3, and 5.8 of the Anti-Dumping Agreement because, among others, the application contained insufficient evidence on dumping causing injury to justify initiation of the investigation, the application did not contain all such information that was reasonably available to the applicant, and the Commission failed to examine the accuracy and adequacy of the application evidence;
- Article 5.4 of the Anti-Dumping Agreement because, among others, the application was not made by or on behalf of the relevant domestic industry in the European Union;
- Articles 2.1, 2.2, 2.2.1.1, and 2.2.2 of the Anti-Dumping Agreement because, among others, there was no basis to reject domestic selling prices and the cost of production was improperly

¹ Commission Implementing Regulation (EU) 2021/939 of 10 June 2021 imposing a provisional anti-dumping duty on imports of mono ethylene glycol originating in the United States of America and the Kingdom of Saudi Arabia, OJ L205, 11.06.2021, p. 4.

² Notice of initiation of an anti-dumping proceeding concerning imports of mono ethylene glycol originating in the United States of America and the Kingdom of Saudi Arabia, OJ C342, 14.10.2020, p. 12.

³ Commission Implementing Regulation (EU) 2021/939 of 10 June 2021 imposing a provisional anti-dumping duty on imports of mono ethylene glycol originating in the United States of America and the Kingdom of Saudi Arabia, OJ L205, 11.06.2021, p. 4, Article 3.

determined after rejecting the recorded costs of the Saudi exporters, and the cost of production did not reflect the cost in the Kingdom of Saudi Arabia;

- Article 2.3 of the Anti-Dumping Agreement because, among others, there was no basis to reject the actual export price of the Saudi exporters, and the constructed export price involved unwarranted and duplicated adjustments, including for certain expenses and profits of related companies;
- Article 2.4 of the Anti-Dumping Agreement because, among others, a provisional dumping margin was established for the Saudi exporters without ensuring a "fair comparison" between the constructed normal value and the constructed export price;
- Article 6.8 and Annex II of the Anti-Dumping Agreement because, among others, the Commission resorted to the use of facts available without justification in relation to the establishment of normal value and export price and for the assessment of injury, improperly applied facts available, including by failing to take into account all relevant and verifiable information on the record that was appropriately and timely submitted by the Saudi exporters so it could be used without undue difficulties, and by failing to corroborate and have special circumspection in the selection of the information used for facts available;
- Article 3.3 of the Anti-Dumping Agreement because, among others, there was no basis to cumulate imports from Saudi Arabia and the United States of America for the assessment of injury and causation given, for example, the constant and substantial differences in price, price and volume trends, and in respect of the effect on domestic prices;
- Articles 3.1 and 3.2 of the Anti-Dumping Agreement because, among others, there was no basis to analyze import volumes by cumulating imports from Saudi Arabia and the United States, the analysis was not based on an objective examination of positive evidence, and there was no reasoned and adequate explanation in support of a finding that there was a significant increase in imports from the Kingdom of Saudi Arabia (nor with the imports from the United States of America on a cumulative basis);
- Articles 3.1 and 3.2 of the Anti-Dumping Agreement because, among others, there was no basis to analyze price effects by cumulating imports from Saudi Arabia and the United States, the analysis was not based on an objective examination of positive evidence, and there was no reasoned and adequate explanation in support of a finding that imports from the Kingdom of Saudi Arabia had a significant effect on domestic prices (nor with the imports from the United States on a cumulative basis);
- Articles 3.1 and 3.4 of the Anti-Dumping Agreement because, among others, there was no basis to analyze the impact on the domestic industry by cumulating imports from Saudi Arabia and the United States, the analysis was not based on an objective examination of positive evidence, and there was no reasoned and adequate explanation in support of a finding that the domestic industry suffered injury and that this was explained by the imports from the Kingdom of Saudi Arabia (nor with the imports from the United States of America on a cumulative basis);
- Articles 3.1 and 3.5 of the Anti-Dumping Agreement because, among others, there was no basis to analyze causation by cumulating imports from Saudi Arabia and the United States of America, the analysis was not based on an objective examination of positive evidence, there was no reasoned and adequate explanation supporting a finding of a genuine and substantial relationship of cause and effect between the imports of Saudi Arabia (nor with the imports from the United States on a cumulative basis) and the alleged injury to the domestic industry, and the Commission failed to properly separate and distinguish injury caused by other known factors so as not to attribute such injury to the imports;
- Article 6.1 of the Anti-Dumping Agreement because, among others, the Commission failed to give proper notice of information that was required and to provide ample opportunity to provide such information, thereby failing to protect the Saudi exporters' fundamental due process rights;

- Articles 6.5 and 6.5.1 of the Anti-Dumping Agreement because, among others, the Commission (a) treated as confidential information provided by the applicant without good cause shown; (b) failed to require the applicant to furnish non-confidential summaries of such information; 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;
- Articles 1 and 18.1 of the Anti-Dumping Agreement and Articles VI:1 and VI:2 of the GATT 1994 as a consequence of the apparent breaches of the Anti-Dumping Agreement described above.

4. In addition, the above-described measure appears to nullify or impair the benefits accruing to the Kingdom of Saudi Arabia directly or indirectly under the cited agreements.

5. The Kingdom of Saudi Arabia reserves the right to raise additional factual and legal issues, and to address additional measures regarding this matter, in the course of the consultations and in any request for the establishment of a panel.

6. The Kingdom of Saudi Arabia looks forward to receiving the reply by the European Union to this request and to setting a mutually acceptable date and venue for the consultations.
