WORLD TRADE ORGANIZATION

G/ADP/Q2/ARM/3, G/ADP/Q2/KAZ/3
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Committee on Anti-Dumping Practices

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ARTICLE 16.4 OF THE AGREEMENT

FOLLOW-UP QUESTIONS OF UKRAINE REGARDING THE REPLIES BY ARMENIA, KAZAKHSTAN, THE KYRGYZ REPUBLIC AND THE RUSSIAN FEDERATION REGARDING ANTI-DUMPING INVESTIGATIONS CONCERNING IMPORTS OF BARS AND RODS AND FERROSILICOMANGANESE ORIGINATING IN UKRAINE TO THE TERRITORY OF THE EURASIAN ECONOMIC UNION

The following communication, dated 30 March 2017, is being circulated at the request of the delegation of Ukraine.

Ukraine thanks Armenia, Kazakhstan, the Kyrgyz Republic and the Russian Federation for its replies[1] to the 22 April 2016 questions regarding anti-dumping investigations concerning imports of bars and rods and ferrosilicomanganese originating in Ukraine to the territory of the Eurasian Economic Union[2], and poses the following follow-up questions:

Question 1

In the reply to Question 1, the Members of the Eurasian Economic Union stated that when establishing periods for a dumping investigation, the Department for Internal Market Defence of the Eurasian Economic Commission (hereinafter – the DMID) takes into account the particular circumstances of a given investigation to ensure that a period is appropriate in each case.

Would Armenia, Kazakhstan, the Kyrgyz Republic and the Russian Federation clarify what specific circumstances were taken into account in investigations concerning imports of bars and rods and ferrosilicomanganese that led to such different periods for a dumping investigation 6 and 18 months? Please explain how the simultaneous initiation of anti-dumping and anti-subsidy investigations affected the determination of period of investigation?

Question 2

In the reply to Question 2, the Members of the Eurasian Economic Union stated that the report on the results of the investigation on bars and rods (hereinafter referred to as "Report") and the proposal on the necessity of application of an anti-dumping measure was considered by the Commission on 28 April 2015.

Along with this in the reply to Question 3, the Members of the Eurasian Economic Union stated that on 14 May 2015 the Report which contained the final results of the anti-dumping investigation on bars and rods was published on the official website of the Eurasian Economic Commission.

Moreover, it is indicated in the webpage of the Eurasian Economic Commission[3] that the notification on application of the anti-dumping measures on bars and rods originating in Ukraine was published on March 31, 2016. In the notification, it is indicated that the decision on the imposition of the measures:

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[1] G/ADP/Q2/ARM/2, G/ADP/Q2/KAZ/2, G/ADP/Q2/KGZ/2, G/ADP/Q2/RUS/3.
[2] G/ADP/Q2/ARM/1, G/ADP/Q2/KAZ/1, G/ADP/Q2/KGZ/1, G/ADP/Q2/RUS/2.
[3] www.eurasiancommission.org/ru/act/trade/podm/investigations/AD-13/default.aspx

1) was adopted on March 29, 2016, and
2) was based on the report of the DMID dated March 29, 2016.

Therefore, it is not clear how the date 28 April 2015 could be considered the date of conclusion of investigation if the Report with final results was published only on 29 March 2016?

Is it therefore correct that the definitive anti-dumping measures on bars and rods originating in Ukraine:

1) were imposed through the EEC Decision No. 28 of 29 March 2016?
2) were imposed after considering the evidence, analysis and recommendations contained in the report submitted by the DMID on March 29, 2016?

Would Armenia, Kazakhstan, the Kyrgyz Republic and the Russian Federation, please, clarify the situation with the Reports and the date of conclusion of investigation, as according to the date of the last report, the investigation on bars and rods was conducted during 28 month?

Against the above facts, how can the anti-dumping measures at stake not be in violation of Article 5.10 of the WTO Anti-Dumping Agreement, in light of the interpretation given by the panel in Mexico – Olive Oil of Article 11.11 of the Agreement on Subsidies and Countervailing Measures?