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**EUROPEAN UNION – COUNTERVAILING AND ANTI-DUMPING DUTIES ON STAINLESS
STEEL COLD-ROLLED FLAT PRODUCTS FROM INDONESIA**

**NOTIFICATION OF AN OTHER APPEAL BY INDONESIA UNDER ARTICLE 16.4 OF THE
UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT
OF DISPUTES (DSU), AND UNDER RULES 23(1), 23(3) AND 23(4) OF THE
WORKING PROCEDURES FOR APPELLATE REVIEW**

The following communication, dated 27 November 2025, from the delegation of Indonesia, is being circulated to Members.

I Introduction

Indonesia regrets that, on 21 November 2025, the European Union (EU) notified the WTO Secretariat and Indonesia of its decision to appeal the report of the panel in *European Union – Countervailing and Anti-Dumping Duties on Stainless Steel Cold-Rolled Flat Products from Indonesia (DS616)*, by filing electronic copies of a Notice of Appeal, without the inclusion of an Appellant Submission.

Indonesia also expresses regret at the fact that the EU appealed such an overwhelmingly balanced, well-reasoned, and high-quality panel report, issued by supremely qualified Panelists, so that the report now remains stuck in a "void", because the Appellate Body is currently non-functional. Indonesia maintains that all of the Panel's findings regarding the series of violations committed by the EU were correct, and is disappointed by the EU's headlong appeal into the void, in the absence of any initiative or offer from the EU towards *ad hoc* bilateral appeal arbitration, in order to explore, seek, and secure a resolution of the dispute, and to maintain the two-tier dispute settlement mechanism.

Given that the Appellate Body remains non-operational, Indonesia considers that all subsequent procedural deadlines set out in the Appellate Body's Working Procedures are properly to be considered as suspended.

When the Appellate Body resumes its functions, it should set the schedule for this appeal. Indonesia intends to file its written submissions in this appeal, including an Other Appellate submission as well as an Appellee submission, within the deadline set by that schedule, as determined by the Appellate Body, once it resumes its functions. Indonesia also intends to participate and make oral statements at the hearing to be convened by the Appellate Body.

Indonesia wishes to note that it disagrees with all of the EU's allegations of errors of law and legal interpretation in the Panel Report, as set out in its Notice of Appeal.

Indonesia is providing a copy of this communication directly to the EU and to the third-parties in this dispute.

As mentioned above, Indonesia hereby also provides a Notice of its Other Appeal, pursuant to Article 16.4 of the DSU and Rules 23(3) and 23(4) of the Working Procedures for Appellate Review. This Notice therefore sets out below Indonesia's grounds of appeal concerning the Panel Report in question.

II Grounds of Appeal

II.1 Conditional Appeal

In accordance with Rule 23(4), the following grounds of appeal are conditional on the Appellate Body, once reinstated, reversing or modifying the Panel's findings in paragraph 7.103, read with the Panel's conclusion in paragraph 8.1(a)(i), concerning the Commission's error in attributing the alleged cross-border financial contributions (CBFCs) to the GOID, and the Commission's determination that these CBFCs constitute 'subsidies' within the meaning of the SCM Agreement, based on the Panel's evaluation in paragraphs 7.53 – 7.102.

In other words, should the Appellate Body reverse or modify the Panel's findings in paragraph 7.103 (read with paragraph 8.1(a)(i)), Indonesia appeals the Panel's omission to address certain claims raised by Indonesia, regarding which the Panel exercised judicial economy. Indonesia respectfully requests the Appellate Body to complete the analysis.

a. Articles 2.1 and 2.2 of the SCM Agreement

Subject to the conditions mentioned in the previous point, Indonesia appeals the Panel's omission to rule on Indonesia's claims that the European Commission (Commission) acted inconsistently with Articles 2.1 and 2.2 of the SCM Agreement by:

1. Incorrectly determining that the GOID, and not the Chinese entities, constituted the 'granting authority' for the purposes of Articles 2.1 and 2.2; and
2. Consequently, erroneously determining that the alleged subsidies to Indonesian recipients were 'specific' within the meaning of Articles 2.1 and 2.2.

These claims were raised and documented in Indonesia's First Written Submission.¹ The Panel nevertheless exercised judicial economy and declined to address the legal aspects of these claims.²

Indonesia requests that, if the conditional trigger is met, the Appellate Body complete the analysis and find that the Commission acted inconsistently with Articles 2.1 and 2.2.

b. Article 2.4 of the SCM Agreement

Similarly, Indonesia appeals the Panel's omission to rule on Indonesia's claims that the Commission acted inconsistently with Article 2.4 by failing to adduce positive evidence of specificity, in particular, because the Commission:

- i. did not substantiate its findings that the alleged subsidies were regionally specific;
- ii. failed to assess each alleged subsidy individually; and
- iii. failed to establish that access to the alleged subsidies was, in fact, limited to enterprises located in the Morowali Industrial Park.

These claims were fully raised and documented in Indonesia's First Written Submission³ and Second Written Submission⁴. The Panel chose not to address the legal aspects of these claims, exercising judicial economy.⁵

Indonesia requests that the Appellate Body, if the conditional trigger is met, complete the analysis and find that the EU violated Article 2.4.

¹ See, Indonesia First Written Submission, para. 229 and Sections V.A.4.c and V.A.4.d

² Panel Report, para. 7.108.

³ See, Indonesia First Written Submission, para. 271 and Sections V.A.5.c, V.A.5.d and V.A.5.e.

⁴ See, Indonesia Second Written Submission, para. 235 and Section II.A.4.

⁵ Panel Report, para. 7.108.

c. Articles 1.1(b), 10, 14 and 32.1 of the SCM Agreement

Finally, Indonesia appeals the Panel's omission to rule on Indonesia's claims that the Commission acted inconsistently with Articles 1.1(b), 10, 14, and 32.1 of the SCM Agreement, by erroneously determining the existence and amount of benefit, with respect to the CBFCs.

In particular, Indonesia submits that the Commission violated:

- i. Articles 14(a), 14(b), and 14(d), in its assessment of alleged benefit concerning alleged shareholder loans and capital-in-kind contributions; and
- ii. As a consequence, Articles 1.1(b), 10, and 32.1, because the Commission's benefit findings formed the basis for the imposition of countervailing duties in question.

These claims were raised and documented in Indonesia's First Written Submission.⁶ The Panel, however, exercised judicial economy and did not address the legal aspects of these claims.⁷

Indonesia, therefore, requests that the Appellate Body, if the conditional trigger is met, complete the legal analysis and find that the EU violated Articles 1.1(b), 10, 14, and 32.1.

II.2 Unconditional Appeal

For reasons to be developed in Indonesia's written and oral submissions, Indonesia appeals, and requests the Appellate Body to reverse, modify, or to declare moot and of no legal effect, the findings, conclusions, and legal interpretations of the Panel with respect to the following:

a. Treatment of Nickel Ore Mining Companies as 'Interested Parties' and Direct Notification

Indonesia appeals the Panel's findings with respect to Articles 12.9 and 12.1 of the SCM Agreement. In particular, Indonesia submits that:

- i. The Panel erred in its interpretation and application of Article 12.9, by finding that the Commission did not err in not designating the nickel ore mining companies as "*interested parties*"; and
- ii. The Panel erred in its interpretation and application of Article 12.1, by finding that the Commission did not err by (i) failing to directly notify nickel ore mining companies of information required from them, and (ii) improperly shifting fact-finding responsibilities onto the GOID.⁸

b. Comment Period for Disclosure

Indonesia submits that the Panel erred in its interpretation and application of Articles 12.1 and 12.8 of the SCM Agreement by finding that a reasonable and unbiased investigating authority could have granted a mere 21 calendar days during a major festive period to comment on a mammoth disclosure document comprising almost 250 pages and 80 Excel sheets.⁹

c. The EU's Omission to Make a Fair Comparisons

Indonesia submits that the Panel erred in its interpretation and application of:

⁶ See, Indonesia First Written Submission, para. 370 and Section V.B.

⁷ Panel Report, para. 7.114.

⁸ Panel Report, paras. 7.362-7.377 and 7.378-7.392 and paras. 8.1.d.i and 8.1.d.ii.

⁹ Panel Report, paras. 7.481-7.501 and para. 8.1.d.xii.

- i. The second sentence of Article 2.4, by finding that the Commission did not fail to make comparisons at the same level of trade;¹⁰
- ii. The third sentence of Article 2.4 and the *chaussette* of Article VI:1 of the GATT 1994, by finding that the Commission did not err by rejecting adjustments to the normal value for transport-related expenses between warehouse locations;¹¹
- iii. The third sentence of Article 2.4, by finding that the Commission did not err by making a downward adjustment to the export price for the involvement of related traders;¹²
- iv. The third sentence of Article 2.4, by finding that the Commission did not err by failing to adjust the normal value for the involvement of related traders in domestic sales;¹³
- v. The final sentence of Article 2.4 and Article 6.1 of the Anti-Dumping Agreement, by finding that the Commission did not fail to indicate what information was necessary to ensure a fair comparison.¹⁴

Indonesia will elaborate on these grounds in its written and oral submissions, consistent with the DSU and the Working Procedures for Appellate Review. For this purpose, and in the interests of fairness and orderly procedure in the conduct of the appeal, in accordance with Rule 16(1) and (2) of the Appellate Body procedures, Indonesia will await further instructions from the Appellate Body. Indonesia reserves its rights to address all issues raised in any other appeal or cross-appeal.

Pursuant to Rule 20(2)(c) of the Working Procedures for Appellate Review, the service address, telephone and facsimile numbers of Indonesia, in addition to the WTO DORA system through which Indonesia can be reached, are:

REPUBLIC OF INDONESIA
Permanent Mission of the Republic of Indonesia to the World Trade Organization
Rue de Saint Jean 16
CH-1203
Switzerland
Telephone number: +41 (0)22 3383350
Email address: geneva@mission-indonesia.org

¹⁰ Panel Report, paras. 7.572-7.593 and para. 8.1.e.i.

¹¹ Panel Report, paras. 7.594-7.608 and para. 8.1.e.ii.

¹² Panel Report, paras. 7.612-7.619 and para. 8.1.e.iii.

¹³ Panel Report, paras. 7.620-7.625 and para. 8.1.e.iv.

¹⁴ Panel Report, paras. 7.630-7.635 and para. 8.1.e.v.