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Page: 1/2

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

**NOTIFICATION OF AN APPEAL BY THE EUROPEAN UNION UNDER ARTICLE 16.4 AND
ARTICLE 17.1 OF THE UNDERSTANDING ON RULES AND PROCEDURES GOVERNING
THE SETTLEMENT OF DISPUTES (DSU), AND UNDER RULE 20(1) OF THE
WORKING PROCEDURES FOR APPELLATE REVIEW**

The following communication, dated 21 November 2025, from the delegation of the European Union, is being circulated to Members.

Pursuant to Article 16.4 and Article 17.1 of the DSU the European Union hereby notifies to the Dispute Settlement Body its decision to appeal to the Appellate Body certain issues of law covered in the Panel Report and certain legal interpretations developed by the Panel in the dispute *European Union – Countervailing and Anti-Dumping Duties on Stainless Steel Cold-Rolled Flat Products from Indonesia* (WT/DS616/R).

In commencing this appeal, in accordance with Article 16.4 of the DSU and Rule 20(1) of the Working Procedures for Appellate Review, the European Union is aware that, as a matter of fact, the Appellate Body is currently unable to hear this appeal due to an insufficient number of its members since December 2019. In those circumstances, the European Union has repeatedly invited Indonesia, in the context of this dispute and other disputes, to join the Multi-party appeal arbitration arrangement ("MPIA")¹ or to agree to similar appeal arbitration procedures on a bilateral and reciprocal basis. This would have allowed the European Union and Indonesia to preserve the main principles and features of the WTO dispute settlement system in disputes between them, despite the persisting blockage of appointments to the Appellate Body. That includes the parties' right to a binding resolution of trade disputes in the WTO and to an independent and impartial appeal review of panel reports.

The European Union regrets that, to date, Indonesia has not taken up these offers. In the absence of appeal arbitration being available to review the legal errors contained in the panel report, the European Union has no choice but to exercise its right to appeal pursuant to Article 16.4 of the DSU.

In so doing, the European Union is restricting its appeal to those errors that it believes constitute serious errors of law or legal interpretation that need to be corrected. Non-appeal of an issue does not signify agreement therewith.

For the reasons to be further elaborated in its submissions to the Appellate Body, the European Union appeals, and requests the Appellate Body to reverse, modify, or declare moot and of no legal effect, the finding, conclusions, rulings and recommendations of the Panel with respect to the following errors of law or legal interpretations contained in the Panel Report:²

¹ JOB/DSB/1/Add.12, 30 April 2020.

² Paragraph numbers provided in the following description of the legal errors of the Panel are intended to indicate the primary instance of the errors. These errors may also be reflected in or have consequences for other parts of the Panel Report, and the European Union also appeals all findings and conclusions deriving from or relying on the appealed errors. The European Union also emphasises that the paragraphs listed in this Notice

1. The Panel erred in the interpretation and application of Article 1.1(a)(1) of the SCM Agreement when finding that the Commission acted inconsistently with this provision by: (a) relying on its finding of "inducement" to attribute to the Government of Indonesia ("GOID") the financial contributions that Chinese grantors provided to PT Indonesia Ruipu Nickel and Chrome Alloy and its related companies ("IRNC Group") in Indonesia; and (b) considering these attributed financial contributions to be subsidies within the meaning of that provision.³
2. The Panel erred in the interpretation and application of Article 1.1(a)(1) of the SCM Agreement when finding that the Commission acted inconsistently with this provision by concluding that all nickel ore mining companies in Indonesia are "public bodies".⁴
3. The Panel erred in the interpretation and application of Article 1.1(a)(1)(iv) of the SCM Agreement when finding that the Commission acted inconsistently with this provision by concluding that the GOID entrusted or directed nickel ore mining companies – as private bodies – to provide nickel ore to the stainless-steel producers in Indonesia.⁵
4. The Panel erred in the interpretation and application of Article 1.1(a)(1)(ii) and Footnote 1 of the SCM Agreement when finding that the Commission acted inconsistently with this provision by deeming import duty exemptions for raw materials imported into bonded zones to be financial contributions and subsidies without providing Indonesia an appropriate opportunity to undertake a "further examination" pursuant to Annex II(II)(2) of the SCM Agreement.⁶
5. The Panel erred in the interpretation and application of Article 12.7 of the SCM Agreement when finding that the Commission acted inconsistently with this provision in determining to apply facts available on the grounds that the IRNC Group did not provide necessary information with respect to the origin of the machinery imported from the Chinese parent companies.⁷

Finally, in these exceptional circumstances, 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 Working Procedures, the European Union will await further instructions from the division, when it may eventually be composed, or the Appellate Body, regarding any further steps to be taken by the European Union in this appeal.

In the event of a cross-appeal by Indonesia, the European Union reserves the right, in addressing any such cross-appeal, to disagree with any statement in the Panel Report made in the context of a matter on which the European Union prevailed.

Pursuant to Rule 20(2)(c) of the *Working Procedures for Appellate Review* the service address, telephone and facsimile numbers of the European Union are:

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of Appeal comprise only an "indicative list", pursuant to Rule 20(2)(d)(iii) of the Working Procedures for Appellate Review.

³ Panel Report, paras. 7.59 – 7.103 and 8.1(a)(i).

⁴ Panel Report, paras. 7.130 – 7.199 and 8.1(b)(i).

⁵ Panel Report, paras. 7.211 – 7.259 and 8.1(b)(ii).

⁶ Panel Report, paras. 7.280 – 7.310 and 8.1(c)(i).

⁷ Panel Report, paras. 7.449 – 7.472 and 8.1(c)(xi).