USTR NEWS

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USTR Requests WTO Dispute Settlement Panels in Two Cases Against China

Washington, D.C. – The Office of the United States Trade Representative (USTR) announced today that the United States requested the World Trade Organization (WTO) to establish dispute settlement panels in two cases against China. One case addresses China's imposition of antidumping duties and countervailing duties on imports of grain-oriented flat-rolled electrical steel from the United States. The other case challenges China's discriminatory and restrictive treatment of U.S. suppliers of electronic payment services.

"**We are troubled by the procedures and decision-making employed by China in its trade remedy investigations, which have now led to serious restrictions on exports of American steel. We also remain deeply concerned about China's continuing efforts to reserve its domestic payment card market for one state-owned enterprise, to the exclusion of American credit and debit card companies. In each of these disputes, USTR will be pressing to ensure that we obtain the trade benefits provided by the WTO Agreement, in particular the American jobs and economic growth at stake as a result of China's actions,"** said Ambassador Kirk.

China's Imposition of Antidumping Duties and Countervailing Duties on U.S. Steel Imports

Grain-oriented flat-rolled electrical steel (GOES) is used by the power-generating industry in transformers, reactors, and other large electric machines. The two largest U.S. manufacturers of GOES are AK Steel Corporation, based in Ohio, and Allegheny Ludlum, based in Pennsylvania.

WTO rules permit Members to impose additional duties on imports of merchandise found to be sold at less than fair value – "dumped" – or to be subsidized, if those imports cause injury to the domestic industry. But, WTO rules also require Members to follow specific procedures and apply defined legal standards when they investigate these cases.

On June 9, 2009, China's Ministry of Commerce (MOFCOM) initiated the proceedings on GOES from the United States. On April 10, 2010, MOFCOM imposed antidumping duties ("AD") and countervailing duties ("CVD"), saying American steel had been dumped into their market and subsidized. MOFCOM imposed antidumping duties ranging from 7.8 percent to 64.8 percent and countervailing duties of between 11.7 percent and 44.6 percent.

China's antidumping and subsidy determinations in the GOES proceedings appear to violate numerous WTO requirements. In the U.S. view, these include the fact that China initiated the proceedings without sufficient evidence; failed to objectively examine the evidence; failed to disclose "essential facts" underlying its conclusions; failed to provide an adequate explanation of its calculations and legal conclusions; improperly used investigative procedures; and failed to provide confidential summaries of Chinese submissions.

The United States requested formal consultations with China at the WTO on September 15, 2010. The United States and China held consultations on November 1, 2010, without resolution of the matter.

"We have watched with growing concern China's resort to additional duties on U.S. exports. It is important to ensure that China is held to the WTO rules and so prevent any unjustified duties from affecting hundreds of millions of dollars of U.S. steel exports to China," said Ambassador Kirk.

China's Treatment of U.S. Suppliers of Electronic Payment Services

Electronic payment services are provided in connection with the operation of electronic networks that process payment transactions involving credit, debit, prepaid, and other payment cards. These services enable, facilitate and manage the flow of information and the transfer of funds from cardholders' banks to merchants' banks. Most of the world's top providers of electronic payment services for credit and debit cards are headquartered in the United States.

Several hundred billion dollars worth of electronic payment transactions were processed in China in 2010. China's regulator of electronic payment services, the People's Bank of China, has issued a series of measures – dating back to 2001 – that provide a Chinese domestic entity, China UnionPay (CUP), with a monopoly over the handling of domestic currency payment card transactions in China while excluding other potential suppliers.

China prohibits foreign suppliers from handling the typical payment card transaction in China, in which a Chinese consumer makes a payment in China's domestic currency, the renminbi (RMB). Instead, China has created a "national champion" in allowing only CUP to provide these services. Meanwhile, with regard to payment card transactions in foreign currency, like those involving Chinese tourists visiting other countries, China imposes requirements and restrictions that favor CUP over foreign suppliers.

The United States asserts that these market access restrictions and discriminatory limitations on foreign suppliers seeking to engage in the supply of electronic payment services violate Articles XVI and XVII of the General Agreement on Trade in Services. We believe that under the terms of its accession to the WTO, China should have fully implemented its commitments to remove market access and national treatment limitations in this service sector by December 11, 2006.

The United States requested WTO consultations on September 15, 2010, and those consultations failed to resolve the dispute. Once the panel is established, it would be expected to take between 12 and 18 months to complete the panel process.

"Removal of the monopoly that China has provided to China UnionPay would create significantly expanded business opportunities in China's huge and growing market for American suppliers of this essential service," said Ambassador Kirk. **"Opening up China's market, as China committed to do over four years ago, would create American jobs for the U.S. suppliers of electronic payment services, and a more efficient payment card system in China would be beneficial for both merchants and consumers.**

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