

March 5, 2019

H.E. Mr. Zhang Xiangchen  
Ambassador  
Permanent Mission of the People's Republic of China  
Route de Lausanne 228  
1292 Chambésy

Dear Mr. Ambassador,

I am writing in connection with the dispute settlement proceedings conducted pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU") concerning *United States – Certain Measures on Steel and Aluminum Products* (DS544), to which China is a party.

On instructions from my authorities, I would like to inquire whether China agrees to make its statements to the Panel and Appellate Body (in the event of any appeal) open to observation by other WTO Members and the public. DSU Article 18.2 provides that every WTO Member has the right to make public statements of its own position. The United States will make its statements publicly available and will request each WTO adjudicator to make arrangements so the public may observe U.S. statements during any substantive meeting in this dispute. The opening of meetings to public observation would serve to enhance WTO Members' and the public's understanding of the dispute settlement system.

I would note that China participates in several international adjudicatory systems that provide for open hearings, such as the International Court of Justice<sup>1</sup> and the International Tribunal for the Law of the Sea<sup>2</sup>. We do not see any reason why China would consider the WTO dispute settlement system should be less transparent than these other systems in which China participates.

I also would inquire whether China plans to make its submissions to the Panel in this dispute available to the public. If China intends to make its submissions available to the public, please so advise at your earliest convenience. If any submission is not to be made public, then pursuant to Article 18.2 of the DSU, please provide us a non-confidential summary of the submission promptly upon filing the submission. As you will recall, Article 18.2 of the DSU provides that "[a] party to a dispute shall also, upon request of a Member, provide a non-confidential summary of the information contained in its written submissions that could be

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<sup>1</sup> Statute of the International Court of Justice, Article 46 ("The hearing in Court shall be public, unless the Court shall decide otherwise, or unless the parties demand that the public be not admitted.").

<sup>2</sup> Statute of the International Tribunal for the Law of the Sea, Article 26.2 ("The hearing shall be public, unless the Tribunal decides otherwise or unless the parties demand that the public be not admitted.").

disclosed to the public.” Please consider this request to be applicable to all submissions to the Panel as well as any submission to the Appellate Body in the event of any appeal in this dispute.

I look forward to receiving your response to these inquiries and request.

Sincerely,

Dennis C. Shea  
Ambassador

cc: Mr. Elbio Rosselli, Chairperson of the Panel