

determination, based on the data obtained from a wrongly-defined domestic industry, was inconsistent with Article 3.1 of the AD Agreement.⁴²⁴

8 CONCLUSIONS AND RECOMMENDATION

8.1. For the reasons set forth in this Report, the Panel concludes as follows:

- i. The European Union acted inconsistently with Article 6.5 of the AD Agreement by treating as confidential the information submitted by Pooja Forge regarding the list and characteristics of its products;
- ii. The European Union violated Articles 6.4 and 6.2 of the AD Agreement by failing to provide the Chinese producers with timely opportunities to see the information on the list and characteristics of Pooja Forge's products;
- iii. The European Union violated Article 2.4 of the AD Agreement by failing to provide the Chinese producers with information regarding the characteristics of Pooja Forge's products that were used in determining normal values;
- iv. The European Union violated Article 2.4.2 of the AD Agreement by not taking into consideration, in its dumping determinations, Chinese producers' exports of models that did not match any of the models sold by Pooja Forge;
- v. The European Union's definition of domestic industry was inconsistent with Article 4.1 of the AD Agreement and the resulting injury determination was inconsistent with Article 3.1 of the AD Agreement.

8.2. For the reasons set forth in this Report, the Panel further concludes as follows:

- i. China has not established that by failing to ensure that the information provided by Pooja Forge concerning the list and characteristics of its products was made available promptly to the Chinese producers, the European Union acted inconsistently with the obligation set forth in Article 6.1.2 of the AD Agreement;
- ii. China has not established that by failing to compare the prices of standard fasteners with the prices of standard fasteners in calculating dumping margins for the Chinese producers in the review investigation at issue, the European Union acted inconsistently with Article 2.4 of the AD Agreement;
- iii. China has not established that by failing to make adjustments for differences that affected price comparability, the European Union acted inconsistently with Article 2.4 of the AD Agreement.

8.3. Having found a violation of Article 6.5 with respect to the confidential treatment of information submitted by Pooja Forge regarding the list and characteristics of its products, the Panel refrains from making a finding with respect to China's claim under Article 6.5.1 of the AD Agreement concerning the non-confidential summary of the same information. Similarly, having found that the European Union violated Article 2.4.2 of the AD Agreement by not taking into consideration, in its dumping determinations, Chinese producers' exports of models that did not match any of the models sold by Pooja Forge, the Panel refrains from addressing China's allegation that by doing so, the Commission also violated Article 2.4 of the AD Agreement.

8.4. Our findings of violation of the AD Agreement demonstrate that the measure taken by the European Union to comply with the DSB recommendations and rulings is inconsistent with the AD Agreement. To the extent they have not been implemented, those recommendations and rulings remain operative.

⁴²⁴ In this regard, we find support in the panel reports in *EC – Salmon (Norway)* and *China – Autos (US)*. See, Panel Reports, *EC – Salmon (Norway)*, para. 7.124 and *China – Autos (US)*, para. 7.210.