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Council for Trade in Goods
Committee on Safeguards

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**IMMEDIATE NOTIFICATION UNDER ARTICLE 12.5 OF THE AGREEMENT
ON SAFEGUARDS TO THE COUNCIL FOR TRADE IN GOODS OF
PROPOSED SUSPENSION OF CONCESSIONS AND OTHER
OBLIGATIONS REFERRED TO IN PARAGRAPH 2
OF ARTICLE 8 OF THE AGREEMENT
ON SAFEGUARDS**

INDIA

The following communication, dated 18 May 2018, is being circulated at the request of the Delegation of India.

Pursuant to Article 12.5 of the Agreement on Safeguards, India would like to hereby notify the Council for Trade in Goods of its proposed suspension of concessions and other obligations referred to in Article 8.2 of the Agreement on Safeguards. This notification is made in connection with safeguard measures imposed by the United States of America ("United States") on imports of certain aluminum and steel articles, *vide* Presidential Proclamation Nos.9704 and 9705 (dated 8 March, 2018), respectively with the effective date of 23 March, 2018.

Pursuant to Article 12.5 of the Agreement on Safeguards, and in accordance with the agreed format for notification (G/SG/1/Rev.1 (5 November 2009)), India proposes to suspend concessions and other obligations as provided for in Article 8.2.

1. Which Member is proposing suspension of concessions and other obligations referred to in Article 8.2

India.

2. Specify the measure, the product subject to the measure, the WTO document that notified the safeguard measure, and the Member imposing the measure in relation to which the Member is proposing suspension of concessions and other obligations referred to in Article 8.2

The measures at issue were imposed by the United States as a definitive safeguard measure on imports of:

- a) "Aluminum Articles" defined in the Harmonized Tariff Schedule (HTS) as: (a) unwrought aluminium (HTS 7601); (b) aluminium bars, rods, and profiles (HTS 7604); (c) aluminium wire (HTS 7605); (d) aluminium plate, sheet, strip, and foil (flat rolled products) (HTS 7606 and 7607); (e) aluminium tubes and pipes and tube and pipe fitting (HTS 7608 and 7609); and (f) aluminium castings and forgings (HTS 7616.99.51.60 and 7616.99.51.70), including any subsequent revisions to these HTS classifications.

The measure was issued through Proclamation No. 9704 of 8 March 2018, 83 Fed. Reg. 11619 (8 March 2018), published on 15 March, 2018, and with the effective date of 23 March, 2018.

b) "Steel Articles" defined at the Harmonized Tariff Schedule (HTS) 6-digit level as: 7206.10 through 7216.50, 7216.99 through 7301.10, 7302.10, 7302.40 through 7302.90, and 7304.10 through 7306.90, including any subsequent revisions to these HTS classifications.

The measure was issued through Proclamation No. 9705 of 8 March 2018, 83 Fed. Reg. 11625 (8 March 2018), published on 15 March, 2018, and with the effective date of 23 March, 2018.

India takes the view that the above-mentioned measures of the United States are safeguard measures although they are in the name of national security. India believes the measures taken by the United States are not consistent with its obligations under the relevant provisions of the GATT 1994 and Safeguards Agreement.

The United States has not notified the measures at issue to the WTO.

3. Describe the proposed suspension of concessions and other obligations referred to in Article 8.2 and the proposed date from which it will come into effect

India hereby notifies the Council for Trade in Goods of its decision to suspend concessions or other obligations under Article XIX:3 of the General Agreement on Tariffs and Trade 1994 (GATT 1994) and Article 8.2 of the Agreement on Safeguards, that are substantially equivalent to the amount of trade affected by the measures imposed by the United States. The proposed suspension of concessions or other obligations takes the form of an increase in tariffs on selected products originating in the United States (as indicated in Annex I and calculated as indicated in Annex II), based on the measures of the United States. India reserves its right to further suspend substantially equivalent concessions and other obligations based on the measures of the United States.

The suspension will come into effect earlier than 21 June, 2018, in case the United States decides to continue the period of application of the measures in accordance with Article 7 of the Agreement on Safeguards. The suspension of concessions will continue to apply until the United States' safeguard measures are lifted.

India notes that the United States declined India's request for consultations. Thus, consultations within the meaning of Article 12.3 of the Agreement on Safeguards have not taken place. The United States has thereby imposed definitive safeguard measures without giving affected Members any opportunity for consultations on the proposed safeguard measures and without the possibility of adjusting the measures in light of the comments of those Members.

India also considers that various other aspects of the measures are inconsistent with the United States' obligations under Article XIX of the GATT 1994 and the Agreement on Safeguards.

India hereby reserves its right under Articles 8.2 and 8.3 of the Safeguards Agreement to suspend the application of substantially equivalent concessions or other obligations under the GATT 1994. Without prejudice to the effective exercise of its right to suspend substantially equivalent concessions or other obligations referred to in Article 8.2, India reserves its right to effectuate the proposed suspension immediately and adjust the products as well as the tariff rates.

India will inform both the Council for Trade in Goods and Committee on Safeguards on the next appropriate steps.

Annex I

The goods covered are determined, within the Annex, by HS codes.

S. No.	HS Codes	Article Description	Additional Duty
1	071310	Peas (<i>Pisum Sativum</i>) Dried and Shelled	5
2	071320	Chickpeas (<i>Garbanzos</i>) Dried and Shelled	5
3	080131	Cashew Nuts Fresh /Dried in shell	10
4	080211	Almonds fresh or dried in shell	10
5	080212	Shelled almonds fresh or dried	20
6	080231	Walnuts fresh or dried in shell	100
7	080232	Shelled Walnuts fresh or dried	100
8	080810	Apples fresh	30
9	090111	Coffee Other, Neither Roasted nor Decaffeinated	5
10	090111	Coffee Rob Parchment Other Grade	10
11	100199	Wheat	5
12	150710	Soya Bean Crude Oil W/N Degummed	5
13	151190	Refined Bleached Deodorised Palmolein	10
14	180100	Cocoa Beans Whole/Broken Raw/Roasted	10
15	180400	Cocoa Butter Fat and Oil	10
16	180500	Cocoa Powder not Containing Sugar/Sweetening Material	10
17	180690	Chocolate and Chocolate Products	10
18	870310	Vehicles specially designed for travelling on snow; golf car and other similar vehicles	50
19	870431	Other goods vehicles, with spark-ignition internal combustion piston engine g.v.w. <= 5 ton: other vehicles	50
20	871150	Motor cycle etc with reciprocating internal combustion piston engine of a cylinder capacity>800 cc	50

Annex II

The substantially equivalent concessions or other obligations under GATT 1994 were calculated as follows:

1. The effects on trade due to the measures of the United States on India's steel and aluminium export were calculated as follows: (based on the export value in 2016-17; in million US dollars).

Affected Products	India's Exports to the U.S	The U.S. increase in Duty	Duty Collected (In US\$)
Aluminium Products	311.65	10%	31.16
Steel Products	537.51	25%	134.4
Total	849.16		165.56

2. The effects on trade due to application of substantially equivalent concessions on India's imports originating in the U.S were calculated as follows: (based on the import value in 2016; in million US dollars).

The Goods Description	India's Imports Originating in the U.S.	India's Increase in Duty	Duty Collected
Peas (Pisum Sativum) Dried and Shelled	1205.58	5	60.3
Chickpeas (Garbanzos) Dried and Shelled	907.01	5	45.4
Cashew Nuts Fresh /Dried in shell	1317.62	10	131.8
Almonds fresh or dried in shell	518.3	10	51.8
Shelled almonds fresh or dried	24.8	20	5.0
Walnuts fresh or dried in shell	32.66	100	32.7
Shelled Walnuts fresh or dried	0.23	100	0.2
Apples fresh	70.1	30	21.0
Coffee Other, Neither Roasted nor Decaffeinated	45.98	5	2.3
Coffee Rob Parchment Other Grade	44.21	10	4.4
Wheat	1268.64	5	63.4
Soya Bean Crude Oil W/N Degummed	2791.16	5	139.6
Refined Bleached Deodorised Palmolein	2191.94	10	219.2
Cocoa Beans Whole/Broken Raw/Roasted	78.87	10	7.9
Cocoa Butter Fat and Oil	36.42	10	3.6
Cocoa Powder not Containing Sugar/Sweetening Material	30.45	10	3.0
Chocolate and Chocolate Products	22.85	10	2.3
Vehicles specially designed for travelling on snow; golf car and other similar vehicles	0.8	50	0.4
Other goods vehicles, with spark-ignition internal combustion piston engine g.v.w. <= 5 ton: other vehicles	0.0	50	0.0
Motor cycle etc with reciprocating internal combustion piston engine of a cylinder capacity>800 cc	11.6	50	5.8

India wishes to clarify that suspension of concessions shall be equivalent to the amount of trade affected by the United States' measures. To this end, India reserves the right to adjust the specific products for which suspension of concessions is effectuated, and its right to adjust the additional rate of duty imposed on such products.