



3 April 2018

(18-2007)

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**Council for Trade in Goods
Committee on Safeguards**

Original: English

**IMMEDIATE NOTIFICATION TO THE COUNCIL FOR TRADE IN GOODS OF THE RESULTS OF
THE CONSULTATIONS UNDER ARTICLE 12.3**

CHINA

*Crystalline Silicon Photovoltaic Cells
(Whether or Not Partially or Fully Assembled into Other Products)*

The following communication, dated 29 March 2018, is being circulated at the request of the Delegation of China.

1. Specify the provision under which consultations were held (i.e. Article 12.3 or Article 12.4)

Article 12.3.

2. Provide reference to the WTO document that notified the safeguard action regarding which consultations were held under Article 12.3 or Article 12.4

G/SG/N/8/USA/9 (dated 4 October 2017), G/SG/N/8/USA/9/Suppl.3 (dated 8 January 2018), and G/SG/N/8/USA/9/Suppl.4–G/SG/N/10/USA/7–G/SG/N/11/USA/6 (dated 26 January 2018) contain notifications from the United States concerning measures taken under the Safeguards Agreement affecting imports of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products (solar products).

3. Specify the Members involved in the consultations, and provide the time period during which consultations were held

On 12 February 2018, China and the United States conducted consultations with a view to discuss the information provided in the above-mentioned documents related to the safeguard measure on solar products and exchanged views on the safeguard measure. China and the United States agreed that the thirty-day consultation requirement under Article 8.2 (allowing countries to, under certain circumstances, suspend concessions if "no agreement is reached within thirty days in the consultations under paragraph 3 of Article 12") would be met on 22 February 2018.

4. Describe the results of the consultation

China and the United States discussed the relevant information, exchanged views on the measure, and discussed the United States' obligation to compensate China under Article 8.1. The United States' position was that, as it believes itself to have acted in conformity with Article 8.1, it did not have an obligation to compensate China under Article 8.1. China asserted that Article 8.1 requires compensation regardless of the legality of the measure. Further, as the consultation period stipulated in Article 8.2 has now ended and as the United States' safeguard measure, under Article 8.3, was not "taken as a result of an absolute increase in imports" and in "conform[ity] to the provisions of [the Safeguard Agreement]," China has the right to apply countermeasures by withdrawing "substantially equivalent concessions or other obligations under GATT 1994." As the

period set forth under Article 8.2 for Article 12.3 consultations has now expired, China has a right to apply these countermeasures so long as it does so thirty days after providing notice to the Council for Trade in Goods of its proposed suspension of concessions and other obligations and the Council for Trade in Goods does not object.

Additionally, the United States stipulates that the 90-day period set forth in Article 8.2 of the Safeguards Agreement and Article XIX:3(a) of the General Agreement on Tariffs and Trade 1994 shall be considered to expire on 6 February 2021. The extension of this 90-day period in no way prejudices the right of China to apply the countermeasures pursuant to its rights afore described. China took no position with respect to this extension.
