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**UNITED STATES – COUNTERVAILING MEASURES ON CERTAIN
HOT-ROLLED CARBON STEEL FLAT PRODUCTS FROM INDIA**

**UNDERSTANDING BETWEEN INDIA AND THE UNITED STATES
REGARDING PROCEDURES UNDER ARTICLES 21 AND 22 OF THE DSU**

The following communication, dated 6 May 2016, from the delegation of India and the delegation of the United States to the Chairperson of the Dispute Settlement Body, is circulated at the request of these delegations.

The United States and India would like to inform the Dispute Settlement Body of the attached "Agreed Procedures under Articles 21 and 22 of the Dispute Settlement Understanding" between the United States and India with respect to the dispute *United States – Countervailing Duty Measures On Certain Hot-Rolled Carbon Steel Flat Products from India* (DS436).

We request that you please circulate the attached agreement to the Members of the Dispute Settlement Body.

Agreed Procedures under Articles 21 and 22 of the Dispute Settlement Understanding

*United States – Countervailing Duty Measures On Certain
Hot-Rolled Carbon Steel Flat Products from India
(WT/DS436)*

In this dispute, the Dispute Settlement Body (DSB) adopted its recommendations and rulings on December 14, 2014. India and the United States (collectively, "the Parties") agreed, pursuant to Article 21.3(b) of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (DSU), that the reasonable period of time to implement the DSB recommendations would expire on March 19, 2016, and subsequently agreed to modify the reasonable period of time so as to expire on April 18, 2016.

The Parties have agreed on the following procedures for the exclusive purposes of this dispute. They are designed to facilitate the resolution of the dispute and reduce the scope for procedural disputes and are without prejudice to either party's views on the correct interpretation of the DSU:

1. Should India consider that the situation described in Article 21.5 of the DSU exists, India will request consultations.¹ The Parties agree to hold such consultations within 14 days from the date of circulation of such request. The parties to the dispute agree that after the end of such period for consultations, India may, at any time, request the establishment of a panel pursuant to Article 21.5 of the DSU.
2. At the first DSB meeting at which India's request for the establishment of an Article 21.5 panel appears on the agenda, the United States shall accept the establishment of that panel.
3. The parties to the dispute shall cooperate to enable the Article 21.5 panel to circulate its report within 90 days of the panel's establishment, excluding such time during which the panel's work may be suspended pursuant to Article 12.12 of the DSU.
4. Either party to the dispute may request the DSB to adopt the report of the Article 21.5 panel at a DSB meeting held at least 20 days after the circulation of the report to the Members unless either party appeals the report.
5. In the event of an appeal of the Article 21.5 panel report, the parties to the dispute shall cooperate to enable the Appellate Body to circulate its report to the Members within 90 days from the date of notification of the appeal to the DSB.
6. In the event of an appeal, either party to the dispute may request the DSB to adopt the reports of the Appellate Body and of the Article 21.5 panel (as modified by the Appellate Body report) at a DSB meeting held within 30 days of the circulation of the Appellate Body report to the Members.
7. In the event the DSB finds, pursuant to Article 21.5 of the DSU, that a measure taken to comply does not exist or that the United States has failed to bring the measure found to be inconsistent with a covered agreement into compliance therewith India may request negotiations with the United States with a view to developing mutually acceptable compensation or request authorization to suspend concessions or other obligations pursuant to Article 22 of the DSU after the adoption by the DSB of the Article 21.5 panel report and, where relevant, the Appellate Body report.
8. The United States shall not assert that India is precluded from requesting such negotiation for developing mutually acceptable compensation or obtaining such DSB authorization on the grounds that the request was made outside the 20-day time-period specified in Article 22.2 or the 30-day time period specified in Article 22.6 of the DSU. This is without prejudice to the right of the United States to have the matter referred to arbitration in accordance with Article 22.6 of the DSU.

¹ The Parties agree that under Article 21.5 of the DSU, consultations are not obligatory.

9. If India requests authorization to suspend concessions or other obligations pursuant to Article 22.2 of the DSU, and the United States objects under Article 22.6 of the DSU to the level of suspension of concessions or other obligations or claims that the principles and procedures set forth in DSU Article 22.3 have not been followed, the Parties agree that the matter will be referred to arbitration and proceedings will commence pursuant to DSU Article 22.6 upon such objection by the United States.
10. The parties to the dispute will cooperate to enable the arbitrator under Article 22.6 of the DSU to circulate its decision within 60 days of the referral to arbitration.
11. If any of the original panelists is not available for either the Article 21.5 compliance panel or the Article 22.6 arbitration (or both), the Parties will promptly consult on a replacement, and either party may request the Director-General of the WTO to appoint, within ten days of being so requested, a replacement for the proceeding or proceedings in which a replacement is required. If an original panelist is unavailable to serve in either of the proceedings, the Parties will further request that, in making this appointment, the Director-General seek a person who will be available to act in both proceedings.
12. The Parties will continue to cooperate in all matters related to these agreed procedures and agree not to raise any procedural objection to any of the steps set out herein. If, during the application of these procedures, the Parties consider that a procedural aspect has not been properly addressed in these procedures, they will endeavor to find a solution within the shortest time possible that will not affect the other aspects and steps agreed herein.
13. These agreed procedures in no way prejudice other rights of either Party to take any action or procedural step to protect its rights and interests, including recourse to the DSU.

Signed in Geneva, on 4 May 2016

For India

For the United States of America

HE Ms Anjali Prasad
Ambassador
Permanent Mission of India

HE Mr Michael Punke
Ambassador
Permanent Mission of the United States
