

**INDIA – ADDITIONAL AND EXTRA-ADDITIONAL DUTIES ON
IMPORTS FROM THE UNITED STATES**

Request for Consultations by the United States

The following communication, dated 6 March 2007, from the delegation of the United States to the delegation of India and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request consultations with the Government of India pursuant to Article 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* and Article XXII of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994"), with respect to "additional duties" and "extra additional duties" that India applies to imports from the United States.

These duties appear to subject imports to ordinary customs duties or other duties or charges in excess of those in India's WTO Tariff Schedule. Accordingly, as a result of the duties, products from the United States do not appear to be exempt from ordinary customs duties or other charges in excess of those set forth in India's WTO Tariff Schedule and appear to be accorded less favourable treatment than that provided for in India's WTO Tariff Schedule. The duties, therefore, appear to be inconsistent with Article II:1(a) and (b) of the GATT 1994. India applies these duties to products that include, but are not limited to, imports of wines and distilled spirits (Harmonized Tariff System Codes 2204, 2205, 2206, and 2208).

Even if these duties were considered to be internal taxes applied at the time of importation, the duties appear to subject imports from the United States to internal taxes in excess of those applied to like domestic products or directly competitive or substitutable domestic products in breach of Article III:2 of the GATT 1994 and to afford less favourable treatment to imported products than to like domestic products in breach of Article III:4 of the GATT 1994.

The measures through which India has provided such treatment include:

- Sections 2 and 3, and First Schedule, of the Customs Tariff Act, 1975 ("basic customs duty," "additional duty" and "extra additional duty");
- Section 12 of the Customs Act, 1962 ("basic customs duty");
- Customs Notification No. 5/2004 (8 January 2004) ("basic customs duty" *inter alia* on spirits);

- Customs Notification No. 20/1997 (1 March 1997) ("basic customs duty" *inter alia* on wine);
- Customs Notification No. 32/2003 (1 March 2003) ("additional duty" *inter alia* on wine and spirits); and
- Customs Notification No. 19/2006 (1 March 2006) ("extra additional duty" *inter alia* on wine and spirits)

as well as any amendments, related measures, or implementing measures.

These measures appear to be inconsistent with the following provisions:

- Article II:1(a) and (b) of the GATT 1994;
- Articles III:2 and III:4 of the GATT 1994.

India's measures also appear to nullify or impair the benefits accruing to the United States directly or indirectly under the cited agreement.

We look forward to receiving your reply to the present request and to fixing a mutually convenient date for consultations.
