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Page: 1/3

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**INDIA – CERTAIN MEASURES RELATING TO SOLAR CELLS
AND SOLAR MODULES**

REQUEST FOR THE ESTABLISHMENT OF A PANEL BY THE UNITED STATES

The following communication, dated 14 April 2014, from the delegation of the United States to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

On 6 February 2013, and 10 February 2014, the United States requested consultations with the Government of India ("India") pursuant to Articles 1 and 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), Article XXII of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994"), and Article 8 of the *Agreement on Trade-Related Investment Measures* ("TRIMs Agreement") concerning domestic content requirements contained in, respectively, "Phase I" and "Phase II" of the Jawaharlal Nehru National Solar Mission ("NSM"). The United States held consultations with India concerning these matters on, respectively, 20 March 2013, and 20 March 2014. Unfortunately, those consultations did not resolve the dispute.

The measures at issue are India's requirements that solar power developers, or their successors in contract, purchase or use solar cells or solar modules of domestic origin in order to enter into and maintain certain power purchase agreements under Phase I or Phase II of the NSM with National Thermal Power Company Vidyut Vyapar Nigam Limited or the Solar Energy Corporation of India. The measures at issue also appear to provide solar power developers, or their successors in contract, additional benefits and advantages, such as long-term tariffs for electricity, contingent on their purchase and use of solar cells and solar modules of domestic origin.

The domestic content requirements at issue are maintained through the following instruments:

1. Ministry of New and Renewable Energy, Resolution: Jawaharlal Nehru National Solar Mission, No. 5/14/2008 (January 2010);

Phase I

2. Ministry of New and Renewable Energy, Guidelines for Selection of New Grid Connected Solar Power Projects, Batch-I (July 2010);
3. Ministry of New and Renewable Energy, Guidelines for Selection of New Grid Connected Solar Power Projects, Batch-II (August 2011);
4. National Thermal Power Company Vidyut Vyapar Nigam Limited, Request for Selection Document for New Grid Connected Solar Photo Voltaic Projects under Phase 1 of JNNSM (August 2010);
5. National Thermal Power Company Vidyut Vyapar Nigam Limited, Request for Selection Document for New Grid Connected Solar Photo Voltaic Projects under Phase 1, Batch II of JNNSM (August 2011);
6. National Thermal Power Company Vidyut Vyapar Nigam Limited Draft Standard Power

Purchase Agreement for Procurement of ___ MW Solar Power on Long Term Basis (August 2010);

7. National Thermal Power Company Vidyut Vyapar Nigam Limited, Draft Standard Power Purchase Agreement for Procurement of ___ MW Solar Power on Long Term Basis (Second Batch) (August 2011);
8. Power Purchase Agreements entered into under Phase I of the NSM, such as by National Thermal Power Company Vidyut Vyapar Nigam Limited or successors in contract;

Phase II

9. Ministry of New and Renewable Energy, Jawaharlal Nehru National Solar Mission Phase II Policy Document (December 2012);
10. Ministry of New and Renewable Energy, Solar Energy Corporation of India, Request for Selection of Solar Power Developers for 750 MW Grid Connected Solar Photo Voltaic Projects under JNNSM PHASE-II: Batch-I, No.: SECI/2013/JNNSM/Ph-II, Batch-I/Solar PV/750MW (October 4, 2013);
11. Ministry of New and Renewable Energy, Approval for Implementation of a Scheme for Setting up of 750 MW of Grid-connected Solar PV Power projects under Batch-I of Phase-II of Jawaharlal Nehru National Solar Mission with Viability Gap Funding support from National Clean Energy Fund (October 15, 2013);
12. Solar Energy Corporation of India, Request for Selection (RfS) Document for 750 MW Grid Connected Solar Photovoltaic Projects Under JNNSM Phase II Batch-I (October 28, 2013);
13. Ministry of New and Renewable Energy, Jawaharlal Neru National Solar Mission Phase-II Guidelines for Implementation of Scheme for Setting up of 750 MW Grid-connected Solar PV Power Projects under Batch-I (October 25, 2013);
14. Solar Energy Corporation of India, *Amendments in the RfS Document of JNNSM Phase-II, Batch-I*, No.: SECI/JNNSM/SPV/P-2/B-1/RfS/102013 (November 29, 2013);
15. Solar Energy Corporation of India, *Amendments in the RfS Document of JNNSM Phase-II, Batch-I*, No.: SECI/JNNSM/SPV/P-2/B-1/RfS/102013 (January 9, 2014);
16. Solar Energy Corporation of India, Clarifications on the queries raised by various stakeholders (November 30, 2013);
17. Solar Energy Corporation of India, Draft Standard Power Purchase Agreement for Procurement of ___MW Solar Power on Long term Basis (November 30, 2013);
18. Solar Energy Corporation of India, Draft Standard Power Purchase Agreement for Procurement of ___MW Solar Power on Long term Basis (January 8, 2014); and
19. Power Purchase Agreements entered into under Phase II of the NSM, such as by National Thermal Power Company Vidyut Vyapar Nigam Limited or the Solar Energy Corporation of India, or successors in contract;

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

The measures at issue appear to be inconsistent with Article III:4 of the GATT 1994 because they accord less favorable treatment to imported products than to like products of national origin.

The measures at issue also appear to be inconsistent with Article 2.1 of the TRIMs Agreement because they are investment measures related to trade in goods that are inconsistent with the Article III:4 of GATT 1994. The measures fall within paragraph 1(a) of the illustrative list contained in the Annex to the TRIMs Agreement.

Accordingly, the United State respectfully requests that the Dispute Settlement Body establish a panel to examine this matter, with the standard terms of reference as set out in Article 7.1 of the DSU.
