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Page: 1/2

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INDIA - ADDITIONAL DUTIES ON CERTAIN PRODUCTS FROM THE UNITED STATES

REQUEST FOR THE ESTABLISHMENT OF A PANEL BY THE UNITED STATES

The following communication, dated 19 September 2019, 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 July 3, 2019, the United States requested consultations with the Government of India ("India") pursuant to Article 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU") and Article XXIII of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994"), with respect to India's imposition of additional duties on certain products originating in the United States ("additional duties measure").¹ The United States held consultations with India on August 1, 2019. Unfortunately, these consultations did not resolve the dispute.

The additional duties measure applies only to products originating in the United States. The additional duties measure does not apply to like products originating in the territory of any other WTO Member, and thus appears inconsistent with the most-favored nation obligation in Article I of the GATT 1994. Moreover, the additional duties measure results in rates of duty greater than the rates of duty set out in India's schedule of concessions, and thus appears inconsistent with Article II of the GATT 1994.

The legal instruments through which India imposes the additional duties measure include the following, operating separately or collectively:

- *Government of India, Ministry of Finance, Department of Revenue, Notification No. 48/2018 – Customs*, June 20, 2018;
- *Government of India, Ministry of Finance, Department of Revenue, Notification No. 49/2018 – Customs*, June 20, 2018;
- *Government of India, Ministry of Finance, Department of Revenue, Notification No. 56/2018 – Customs*, August 3, 2018;
- *Government of India, Ministry of Finance, Department of Revenue, Notification No. 62/2018 – Customs*, September 17, 2018;
- *Government of India, Ministry of Finance, Department of Revenue, Notification No. 77/2018 – Customs*, November 1, 2018;
- *Government of India, Ministry of Finance, Department of Revenue, Notification No. 80/2018 – Customs*, December 15, 2018;
- *Government of India, Ministry of Finance, Department of Revenue, Notification No. 03/2019 – Customs*, January 29, 2019;

¹ WT/DS585/1.

- *Government of India, Ministry of Finance, Department of Revenue, Notification No. 06/2019 – Customs, February 26, 2019;*
- *Government of India, Ministry of Finance, Department of Revenue, Notification No. 11/2019 – Customs, March 29, 2019;*
- *Government of India, Ministry of Finance, Department of Revenue, Notification No. 14/2019 – Customs, May 1, 2019;*
- *Government of India, Ministry of Finance, Department of Revenue, Notification No. 15/2019 – Customs, May 14, 2019;*
- *Government of India, Ministry of Finance, Department of Revenue, Notification No. 16/2019 – Customs, June 15, 2019;*
- *Government of India, Ministry of Finance, Department of Revenue, Notification No. 17/2019 – Customs, June 15, 2019;*

as well as any amendments, replacements, related measures or implementing measures. The additional duties measure appears to be inconsistent with India's obligations under:

- Article I:1 of the GATT 1994 because it fails to extend to products of the United States an advantage, favor, privilege or immunity granted by India with respect to customs duties and charges of any kind imposed on or in connection with the importation of products originating in the territory of other Members;
- Article II:1(a) of the GATT 1994 because it accords less favorable treatment to products originating in the United States than that provided for in India's schedule; and
- Article II:1(b) of the GATT 1994 because it imposes duties or charges in excess of those set forth in India's schedule.

The additional duties measure appears to nullify or impair the benefits accruing to the United States directly or indirectly under the GATT 1994.

Accordingly, the United States respectfully requests pursuant to Article 6 of the DSU 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.
