

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

Notification of an Other Appeal by India  
under Article 16.4 and Article 17 of the Understanding on Rules  
and Procedures Governing the Settlement of Disputes (DSU),  
and under Rule 23(1) of the Working Procedures for Appellate Review

The following notification, dated 13 August 2008, from the Delegation of India, is being circulated to Members.

1. Pursuant to Article 16.4 and 17.4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU") and Rule 23 (1) of the *Working Procedures for Appellate Review* ("Working Procedures"), India hereby notifies its decision to appeal to the Appellate Body certain issues of law covered in the Report of the Panel in *India – Additional and Extra-Additional Duties on Imports from the United States*, WT/DS360/R ("Panel Report") and legal interpretations developed by the Panel in this dispute.

2. India seeks review by the Appellate Body of the issues of law and legal interpretations developed by the Panel in its Report. In India's view, the Panel has erred in its Report by erroneously interpreting the provisions of Article 19 of the DSU Rules and has in its "Conclusions and Recommendations", made certain "concluding remarks"<sup>1</sup> which India submits are without basis and result in an ambiguous and unpredictable interpretation of India's WTO rights and obligations.

3. As a consequence of the errors in the issues of law covered in the Panel Report and the legal interpretations developed therein, the Panel has erred in interpreting and applying the following legal provisions of the covered agreements:

(i) Article 19.1 and 19.2 read with Article 3.2 of the DSU Rules, which authorize the Panel to make recommendations or suggestions pertaining to implementation only if a measure has been found inconsistent with the provisions of a covered agreement, provided that such suggestions or "concluding remarks" do not add to or diminish the rights and obligations contained in the covered agreements.

(ii) Article 11 of the DSU that *inter alia* authorizes the Panel to make "such other findings" provided that such findings or "concluding remarks" assist the DSB in making its recommendations.

---

<sup>1</sup> See, Panel Report, Section VIII, para 8.2.

4. The relevant paragraph of the Panel Report in which the Panel has erred in addressing the issues of law and/or the legal interpretations is paragraph 8.2 of the Panel Report pertaining to the misinterpretation of Article 19 of the DSU.

5. In light of the errors in the issues of law covered in the Panel Report and the legal interpretations developed therein, India requests that the Appellate Body rectify the Panel's "concluding remarks" and hold that such remarks are inconsistent with Article 19 of the DSU.

---