



16 May 2018

(18-2919)

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Original: English

**UNITED STATES – SAFEGUARD MEASURE ON IMPORTS OF  
LARGE RESIDENTIAL WASHERS**

**REQUEST FOR CONSULTATIONS BY THE REPUBLIC OF KOREA**

The following communication, dated 14 May 2018, from the delegation of the Republic of Korea to the delegation of the United States and to the Chairperson of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

1. Upon instructions from my authorities, and on behalf of the Government of the Republic of Korea ("Korea"), I hereby request consultations with the Government of the United States of America ("United States") pursuant to Articles 1 and 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), Article XXII:1 of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994"), and Article 14 of the *Agreement on Safeguards*, regarding the definitive safeguard measure imposed by the United States on imports of large residential washers.

2. The United States imposed the definitive safeguard measure on imports of large residential washers pursuant to "Proclamation 9694 of January 23, 2018 - To Facilitate Positive Adjustment to Competition from Imports of Large Residential Washers" (83 FR 3553).<sup>1</sup>

3. This request also concerns any modification, review, replacement or amendment to the definitive safeguard measure on large residential washers, including any closely connected, subsequent measures to determine the form and amount of safeguard remedy, as well as the underlying reports, memoranda and other documents supporting the safeguard measure.

4. Korea notes that according to Article 11.1(a) of the Agreement on Safeguards, a Member shall not take or seek any emergency action on imports of particular products as set forth in Article XIX of the GATT 1994 unless such action conforms with the provisions of that Article applied in accordance with the Agreement on Safeguards. In this respect, Korea is concerned that the safeguard measure is inconsistent with the obligations of the United States under the GATT 1994 and the Agreement on Safeguards. In particular, Korea considers that the safeguard measure imposed by the United States on large residential washers fails to comply with, but not limited to, the following provisions:

- a. Article XIX:1(a) of the GATT 1994 and Articles 1 and 3.1 of the Agreement on Safeguards because the United States failed to make a determination regarding (i) the existence of unforeseen developments resulting in increased imports and (ii) the effect of the obligations incurred under the GATT 1994;
- b. Articles 2.1 and 3.1 of the Agreement on Safeguards since the United States failed to properly make a determination, including a reasoned and adequate explanation that the

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<sup>1</sup> The safeguard measure on large residential washers is based on the USITC determination of injury on 5 October 2017 and the report to the President on 4 December 2017 regarding the Investigation No.TA-201-076. See, Public Report, Large Residential Washers, Inv. No. TA-201-076, USITC Pub. 4745 (Dec. 2017), a summary of which was published on 8 December 2017 in the U.S. Federal Register under citation "82 FR 58026".

subject imports increased "in such quantities and under such conditions" to cause serious injury to the domestic industry;

- c. Articles 2.1, 3.1, 4.1 and 4.2 of the Agreement on Safeguards as the United States failed to make a proper determination and to provide a reasoned and adequate explanation of a significant overall impairment in the position of the domestic industry to support its conclusion that the domestic industry was suffering "serious injury or threat of serious injury", including with respect to all products covered by the measure;
- d. Articles 2.1, 3.1 and 4.2 of the Agreement on Safeguards because the safeguard measure is not supported by a reasoned and adequate explanation of how the subject imports "cause or threaten to cause" serious injury to the domestic industry, and because the United States failed to properly conduct a non-attribution analysis to separate and distinguish the effects of "other factors" causing or threatening to cause injury;
- e. Articles 2.1, 3.1, 4.1(c) and 4.2 of the Agreement on Safeguards since the United States did not properly define the scope of the investigation and the domestic industry by failing to limit the scope of the domestic industry to only those producers producing the "like or directly competitive products" to the subject imports and by including in the examination of injury to the domestic industry products that were expressly excluded from the scope of the investigation;
- f. Articles 2.1, 2.2, and 4.2 of the Agreement on Safeguards because the United States failed to respect the requirement of parallelism between the scope of the investigation and the scope of the safeguard measure;
- g. Articles 3.1 and 3.2 of the Agreement on Safeguards since the United States did not provide the interested parties with sufficient opportunities to participate, including as a result of the failure to respect the requirements on granting confidential treatment and the availability of sufficiently informative non-confidential summaries, as well as the United States' failure to set forth in the published report the findings and reasoned conclusions on all pertinent issues of fact and law, including the conditions on which the measure was imposed, the nature and level of the actual measure, and a ground for excluding certain sources;
- h. Articles 5.1 and 7.4 of the Agreement on Safeguards as a result of the United States' failure to grant relief only to the "extent necessary" and to limit that relief to serious injury caused by increased imports at the time of imposition of the measure as well as at the stages of progressive liberalization;
- i. Article 7.1 of the Agreement on Safeguards because the United States failed to grant relief only "for such period of time as may be necessary to prevent or remedy serious injury and to facilitate adjustment";
- j. Article 8.1 of the Agreement on Safeguards to the extent that the United States failed to endeavor to maintain a substantially equivalent level of concessions and other obligations under the GATT 1994 between the United States and Korea in accordance with Article 12.3 of the Agreement on Safeguards;
- k. Articles 12.1, 12.2 and 12.3 of the Agreement on Safeguards since the United States failed to provide immediate notifications with all pertinent information and failed to provide Korea with an adequate opportunity to commence prior consultations;
- l. Article X:3 of the GATT 1994 because the measure is not based on a uniform, impartial and reasonable administration of the relevant U.S. laws and regulations;
- m. Article I:1 of the GATT 1994 because the safeguard measure discriminates between the products originating in Korea and the like products originating in other WTO Members; and
- n. Article II of the GATT 1994 because the safeguard measure amounts to a withdrawal or modification of the United States' concessions without a justification under Article XIX of the GATT 1994, the Agreement on Safeguards or any other provisions of the WTO Agreement.

5. In sum, Korea is concerned that the safeguard measure on large residential washers is inconsistent with the relevant obligations of the United States under the GATT 1994 and the Agreement on Safeguards. The United States' measure appears to nullify or impair the benefits accruing to Korea directly or indirectly under the above Agreements.

6. Korea reserves the right to raise additional factual and legal issues, and to address additional measures and claims regarding the above matter, in the course of the consultations and in any request for the establishment of a panel.

7. Korea looks forward to receiving the United States' reply to this request and to determining a mutually acceptable date and venue for consultations.

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