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## INDIA - ADDITIONAL DUTIES ON CERTAIN PRODUCTS FROM THE UNITED STATES

### REQUEST FOR CONSULTATIONS BY THE UNITED STATES

The following communication, dated 3 July 2019, from the delegation of the United States to the delegation of India, is circulated to the Dispute Settlement Body in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request 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 with respect to certain products originating in the United States ("additional duties measure").

India does not impose the additional duties measure on like products originating in the territory of any other WTO Member. India also appears to be applying rates of duty to US imports greater than the rates of duty set out in India's schedule of concessions.<sup>1</sup>

The legal instruments through which India imposes the additional duties measure include the following:

- *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;*

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<sup>1</sup> India has stated publicly that its additional duties are permitted under the *Agreement on Safeguards*. The United States has not adopted a safeguard measure in connection with any issue in this dispute. The *Agreement on Safeguards* is therefore not implicated in this dispute, and India's additional duties could not be consistent with Articles 8.2 or 8.3 of the *Agreement on Safeguards*.

- *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:

- Article I:1 of the GATT 1994, because India 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, and
- Article II:1(a) and (b) of the GATT 1994, because India accords less favorable treatment to products originating in the United States than that provided for in India's schedule of concessions.

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

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

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