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

RECOURSE TO ARTICLE 22.2 OF THE DSU BY THE UNITED STATES

The following communication, dated 19 December 2017, from the delegation of the United States to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Article 22.2 of the DSU.

The United States considers that India has failed to comply with the recommendations and rulings of the Dispute Settlement Body ("DSB") in the dispute *India – Certain Measures Relating to Solar Cells and Modules* (DS456) ("*India – Solar Cells*"). Pursuant to Article 22.2 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), the United States requests authorization from the DSB to suspend concessions or other obligations with respect to India at an annual level based on a formula commensurate with the trade effects caused to the interests of the United States by the failure of India to comply with the recommendations and rulings of the DSB.

On 14 October 2016, the DSB adopted the panel report, as modified by the Appellate Body report, in *India – Solar Cells*, finding that India's domestic content requirements ("DCR measures") for solar cells and modules breach Article 2.1 of the *Agreement on Trade-Related Investment Measures* ("TRIMs Agreement") and Article III:4 of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994"). Accordingly, the DSB recommended that India "bring its measures into conformity with its obligations under the TRIMs Agreement and the GATT 1994."

The United States and India agreed that the reasonable period of time for India to implement the DSB's recommendations and rulings would expire on 14 December 2017. In the view of the United States, India failed to bring its measures into compliance with the recommendations and rulings of the DSB within that period. The parties have not reached agreement on compensation. Therefore, the United States is entitled to authorization by the DSB to take countermeasures under Article 22 of the DSU.

In considering what countermeasures to take, the United States follows the principles and procedures set forth in Article 22.3 of the DSU. The countermeasures would consist of suspension of tariff concessions and related obligations (including most-favored-nation obligations) under the *General Agreement on Tariffs and Trade 1994* on a list of products of India to be drawn from the Harmonized Tariff Schedule of the United States.

We request that you please circulate this notification to the Members of the DSB.
