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UNITED STATES – CERTAIN MEASURES RELATING TO THE RENEWABLE ENERGY SECTOR

NOTIFICATION OF AN APPEAL BY THE UNITED STATES UNDER ARTICLE 16.4 AND ARTICLE 17 OF THE UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES (DSU), AND UNDER RULE 20(1) OF THE WORKING PROCEDURES FOR APPELLATE REVIEW

The following communication, dated 15 August 2019, from the delegation of the United States, is being circulated to Members.

Pursuant to Article 16 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU") and Rule 23 of the *Working Procedures for Appellate Review*, the United States hereby notifies its decision to appeal to the Appellate Body certain issues of law covered in the Report of the Panel in *United States – Certain Measures Relating to the Renewable Energy Sector* (WT/DS510/R) and certain legal interpretations developed by the Panel.

The United States seeks review by the Appellate Body of the Panel's legal findings that the amended versions of the Washington State Additional Incentive ("Washington amended measure") and the California Manufacturer Adder ("California amended measure") fell within the Panel's terms of reference.¹ The Panel's findings are based on an erroneous interpretation and application of Articles 6.2 and 7.1 of the DSU. In particular, the Panel erred in finding that the Washington amended measure and California amended measure were within its terms of reference. Furthermore, because the Washington amended measure and California amended measure were not within the Panel's terms of reference, the Panel erred as a matter of law in finding that the Washington amended measure and California amended measure were inconsistent with Article III:4 of the *General Agreement on Tariffs and Trade 1994*.²

¹ See Panel Report, paras. 7.51 – 7.53.

² See Panel Report, paras. 8.4 (a) – (b).