



6 July 2018

(18-4255)

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Original: English

UNITED STATES – CERTAIN MEASURES ON STEEL AND ALUMINIUM PRODUCTS

COMMUNICATION FROM THE UNITED STATES

The following communication, dated 28 May 2018, was received from the delegation of the United States with the request that it be circulated to the Dispute Settlement Body (DSB).

On 18 May 2018, the United States received India's letter of the same date requesting consultations pursuant to Article 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), Article XXII of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994"), and Article 14 of the *Agreement on Safeguards*.

India's request concerns tariffs on imports of steel and aluminum articles imposed by the President of the United States pursuant to Section 232 of the Trade Expansion Act of 1962 ("Section 232"). The President determined that tariffs were necessary to adjust the imports of steel and aluminum articles that threaten to impair the national security of the United States. Issues of national security are political matters not susceptible to review or capable of resolution by WTO dispute settlement. Every Member of the WTO retains the authority to determine for itself those matters that it considers necessary to the protection of its essential security interests, as is reflected in the text of Article XXI of the GATT 1994.

India's request purports to be pursuant to Article 14 of the *Agreement on Safeguards*. However, the tariffs imposed pursuant to Section 232 are not safeguard measures but rather tariffs on imports of steel and aluminum articles that threaten to impair the national security of the United States. The United States did not take action pursuant Section 201 of the Trade Act of 1974, which is the law under which the United States imposes safeguard measures. Therefore, there is no basis to consult pursuant to the *Agreement on Safeguards* with respect to tariffs imposed under Section 232.

Without prejudice to the U.S. view that the tariffs imposed pursuant to Section 232 are issues of national security not susceptible to review or capable of resolution by WTO dispute settlement, and that the consultations provision in the *Agreement on Safeguards* is not applicable, the United States accepts the request of India to enter into consultations.

The United States has taken note of India's notification of 18 May 2018, in which India stated its intent to suspend concessions and other obligations, purportedly under Article 8.2 of the *Agreement on Safeguards*. Because the tariffs imposed pursuant to Section 232 are not safeguard measures, the United States considers that Article 8.2 of the *Agreement on Safeguards* does not justify India's suspension of concessions or other obligations. India has asserted no other justification for its measures, and the United States is aware of none. Therefore, it appears that India's actions have no basis under WTO rules.

We stand ready to confer with officials from your mission on a mutually convenient date for these consultations.
