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**UNITED STATES – CERTAIN MEASURES ON STEEL
AND ALUMINIUM PRODUCTS**

REPORT OF THE PANEL

TABLE OF CONTENTS

1 COMPLAINT BY INDIA	3
2 PANEL ESTABLISHMENT AND COMPOSITION	3
3 PANEL PROCEEDINGS.....	5
4 NOTIFICATION OF A MUTUALLY AGREED SOLUTION.....	6

1 COMPLAINT BY INDIA

1.1. On 18 May 2018, India requested consultations with the 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 (GATT 1994), and Article 14 of the Agreement on Safeguards with respect to certain measures by the United States to adjust imports of steel and aluminium into the United States.¹

1.2. India alleged that the measures at issue were, in effect and in substance, safeguard measures that the United States had adopted and implemented inconsistently with its substantive and procedural obligations under the GATT 1994 and the Agreement on Safeguards. India also claimed that, to the extent that the United States sought any voluntary export restraints, orderly marketing arrangements, or any other similar measures on the export or the import side, the measures at issue appeared to be inconsistent with the United States' obligations under Article 11.1(b) of the Agreement on Safeguards and Article XI:1 of the GATT 1994. In addition, India claimed that the measures were inconsistent with Articles I:1, II:1(a), II:1(b), and X:3(a) of the GATT 1994.

1.3. Consultations were held on 20 July 2018 but failed to resolve the dispute.

2 PANEL ESTABLISHMENT AND COMPOSITION

2.1. On 8 November 2018, India requested the establishment of a panel pursuant to Articles 4.7 and 6 of the DSU, Article XXIII:2 of the GATT 1994, and Article 14 of the Agreement on Safeguards with standard terms of reference.²

2.2. In its panel request, India stated that the measures at issue related to the imposition by the United States of additional import duties of 25% *ad valorem* and 10% *ad valorem*, respectively, on certain steel and aluminium products.

2.3. With respect to steel products, India noted that on 23 March 2018, the United States imposed additional duties of 25% *ad valorem* on certain steel products imported from countries other than Argentina, Australia, Brazil, Canada, the European Union, the Republic of Korea, and Mexico. India observed that, on 1 June 2018, such additional duties were also imposed on imports from Canada, the European Union, and Mexico, with only Argentina, Australia, Brazil, and the Republic of Korea remaining exempt. In addition, India referred to quotas imposed by the United States on Argentina, Brazil, and the Republic of Korea, based on an agreement, limiting the quantities of imported steel articles by weight per calendar year.

2.4. With respect to aluminium products, India noted that on 23 March 2018, the United States imposed additional duties of 10% *ad valorem* on certain aluminium products imported from countries other than Argentina, Australia, Brazil, Canada, the European Union, the Republic of Korea, and Mexico. India observed that, on 1 May 2018 and 1 June 2018, such additional duties were also imposed on imports from Brazil, Canada, the European Union, the Republic of Korea, and Mexico, with Argentina and Australia remaining exempt. In addition, India referred to quotas imposed by the United States on Argentina, based on an agreement, limiting the quantities of imported aluminium articles by weight per calendar year.

2.5. India identified the measures at issue as including but not limited to the following:

- a. Adjusting Imports of Aluminium into the United States, including the Annex, To Modify Chapter 99 of the Harmonized Tariff Schedule of the United States (Presidential Proclamation 9704, issued on 8 March 2018);
- b. Adjusting Imports of Steel into the United States, including the Annex, To Modify Chapter 99 of the Harmonized Tariff Schedule of the United States (Presidential Proclamation 9705, issued on 8 March 2018);

¹ Request for consultations by India, WT/DS547/1-G/L/1238-G/SG/D53/1, p. 1.

² Request for the establishment of a panel by India, WT/DS547/8 (India's panel request), p. 1.

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- c. Adjusting Imports of Aluminium into the United States (Presidential Proclamation 9710, issued on 22 March 2018);
 - d. Adjusting Imports of Steel into the United States (Presidential Proclamation 9711, issued on 22 March 2018);
 - e. Adjusting Imports of Aluminium into the United States (Presidential Proclamation 9739, issued on 30 April 2018);
 - f. Adjusting Imports of Steel into the United States (Presidential Proclamation 9740, issued on 30 April 2018);
 - g. Adjusting Imports of Aluminium into the United States (Presidential Proclamation 9758, issued on 31 May 2018);
 - h. Adjusting Imports of Steel into the United States (Presidential Proclamation 9759, issued on 31 May 2018);
 - i. Adjusting Imports of Steel into the United States (Presidential Proclamation 9772, issued on 10 August 2018);
 - j. Adjusting Imports of Steel into the United States (Presidential Proclamation 9776, issued on 29 August 2018);
 - k. Adjusting Imports of Steel into the United States (Presidential Proclamation 9777, issued on 29 August 2018);
 - l. Requirements for Submissions Requesting Exclusions from the Remedies Instituted in Presidential Proclamations Adjusting Imports of Steel into the United States and Adjusting Imports of Aluminium into the United States; and the Filing of Objections to Submitted Exclusion Requests for Steel and Aluminium (U.S. Department of Commerce);
 - m. Interim final rule regarding submissions of exclusion requests and objections to submitted requests for Steel and Aluminium issued by Bureau of Industry and Security issued on 11 September 2018;
 - n. Section 232 Tariffs on Aluminium and Steel, Additional Duty on Imports of Steel and Aluminium Articles under Section 232 of the Trade Expansion Act of 1962 (U.S. Customs and Border Protection);
 - o. Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. §1862), cited in the Presidential Proclamations above for vesting authorities in the President of the United States to take the actions therein;
 - p. The Effect of Imports of Steel on the National Security, An Investigation Conducted Under Section 232 of the Trade Expansion Act of 1962, As Amended (U.S. Department of Commerce, 11 January 2018);
 - q. The Effect of Imports of Aluminium on the National Security, An Investigation Conducted Under Section 232 of the Trade Expansion Act of 1962, As Amended (U.S. Department of Commerce, 17 January 2018);

as well as "all the amendments, supplements, successor, replacement, extensions or implementing measures and any exemptions applied".³

2.6. India claimed that the measures at issue, operating independently and/or together, appeared to be inconsistent with the United States' obligations under Articles 2.1, 2.2, 3.1, 4.1, 4.2, 5.1, 7, 9.1, 11.1(a), 11.1(b), 12.1, 12.2, and 12.3 of the Agreement on Safeguards, as well as Articles I:1, II:1(a), II:1(b), X:3(a), XI:1, XIX:1(a), and XIX:2 of the GATT 1994. India also alleged that the

³ India's panel request, pp. 2-3.

measures in question appeared to be nullifying or impairing the benefits accruing to India directly or indirectly under the covered agreements.⁴

2.7. At its meeting on 4 December 2018, the Dispute Settlement Body (DSB) established a panel pursuant to the request of India in document WT/DS547/8, in accordance with Article 6 of the DSU.⁵

2.8. The Panel's terms of reference are the following:

To examine, in the light of the relevant provisions of the covered agreements cited by the parties to the dispute, the matter referred to the DSB by India in document WT/DS547/8 and to make such findings as will assist the DSB in making the recommendations or in giving the rulings provided for in those agreements.⁶

2.9. On 7 January 2019, India requested the Director-General to determine the composition of the panel, pursuant to Article 8.7 of the DSU. On 25 January 2019, the Director-General accordingly composed the Panel as follows:

Chairperson: Mr Elbio Rosselli

Members: Mr Esteban B. Conejos, Jr
Mr Rodrigo Valenzuela

2.10. The Kingdom of Bahrain; Brazil; Canada; China; Colombia; Egypt; the European Union; Guatemala⁷; Hong Kong, China; Iceland; Indonesia; Japan; Kazakhstan; Malaysia; Mexico; New Zealand; Norway; Qatar; the Russian Federation; the Kingdom of Saudi Arabia; Singapore; South Africa⁸; Switzerland; Chinese Taipei; Thailand; Türkiye⁹; Ukraine; the United Arab Emirates; and the Bolivarian Republic of Venezuela notified their interest in participating in the Panel proceedings as third parties.

3 PANEL PROCEEDINGS

3.1. The Panel held an organizational meeting with the parties on 13 March 2019.

3.2. Following consultations with the parties, the Panel adopted its Working Procedures¹⁰ and Timetable¹¹ on 5 April 2019.

3.3. The Panel held a first substantive meeting with the parties on 31 October 2019. A session with the third parties took place on 18 November 2019.

3.4. According to the revised Timetable adopted on 20 February 2020, the Panel's second meeting with the parties was scheduled for 9-10 July 2020. However, due to the impact of the COVID-19 pandemic on in-person meetings, and in consultation with the parties, the Panel postponed the second meeting to a later date on multiple occasions. Subsequently, the Panel continued to consult with the parties on the feasibility of in-person meetings and possible alternative arrangements. Both parties identified numerous potential obstacles to holding in-person meetings, including evolving travel and quarantine restrictions due to the pandemic, and maintained their opposition to the adoption of any alternative arrangement as a substitute for in-person meetings.

3.5. On 12 January 2023, the Panel invited the parties' views on the way forward in these proceedings, in response to which both parties indicated that they were engaging in discussions to

⁴ India's panel request, pp. 3-5.

⁵ DSB, Minutes of the meeting held on 4 December 2018, WT/DSB/M/422, para. 1.5.

⁶ Constitution note of the Panel, WT/DS547/9.

⁷ On 14 March 2019, Guatemala notified the Panel of its interest to participate as a third party. See WT/DS547/9/Rev.1.

⁸ On 16 July 2019, South Africa notified the DSB and the Panel of its interest to participate as a third party. See WT/DS547/9/Rev.2.

⁹ Formerly "Turkey". See WT/INF/43/Rev.23.

¹⁰ The Panel's Working Procedures were revised on 19 July 2019 and 20 February 2020.

¹¹ In consultation with the parties, the Panel also revised its timetable on 19 July 2019, 13 December 2019, and 20 February 2020.

reach a positive resolution in this dispute and requested additional time to provide comments to the Panel on this matter.

4 NOTIFICATION OF A MUTUALLY AGREED SOLUTION

4.1. By a joint communication dated 13 July 2023, pursuant to Article 3.6 of the DSU, the parties notified the DSB that they had reached a mutually agreed solution to the matter raised in this dispute.¹² On the same date, the parties also informed the Panel of their mutually agreed solution.

4.2. The Panel takes note of the mutually agreed solution between the parties to the dispute and recalls Article 3.7 of the DSU, which provides that "[t]he aim of the dispute settlement mechanism is to secure a positive solution to a dispute. A solution mutually acceptable to the parties to a dispute and consistent with the covered agreements is clearly to be preferred."

4.3. The Panel also takes note of Article 12.7 of the DSU, which provides that "[w]here a settlement of the matter among the parties to the dispute has been found, the report of the panel shall be confined to a brief description of the case and to reporting that a solution has been reached."

4.4. Accordingly, the Panel concludes its work by reporting that a mutually agreed solution to this dispute has been reached between the parties.

¹² This was circulated as document WT/DS547/15 on 18 July 2023.