

US – RENEWABLE ENERGY (INDIA)¹

(DS510)

PARTIES		AGREEMENT	TIMELINE OF THE DISPUTE	
Complainant	India	GATT 1994, Art. III:4 TRIMs, Arts. 2.1 and 2.2	Establishment of Panel	21 March 2017
			Circulation of Panel Report	27 June 2019
Respondent	United States	ASCM, Arts. 3.1(b) and 3.2	Notification of appeal	15 August 2019

1. MEASURE AND PRODUCT AT ISSUE

- **Measure at issue:** Financial incentives granted under various renewable energy programs in several States (Washington, California, Montana, Connecticut, Michigan, Delaware and Minnesota) for the purchase, installation, and use of “made-in-state” renewable energy systems and related products.
- **Products at issue:** Renewable energy systems, installation, and resources

2. SUMMARY OF KEY PANEL FINDINGS

- **GATT Art. III:4 (national treatment – domestic laws and regulations):** The Panel found that the measures at issue (i) distinguished solely on the basis of origin; (ii) fell within the scope of the phrase “laws, regulations and requirements”; (iii) affected the internal sale, offering for sale, purchase, transportation, distribution or use of the relevant products; and (iv) modified the conditions of competition to the detriment of imported products, thus according less favourable treatment to such products. Specifically, the Panel found that offering financial incentives for the use of domestic products, but not for the use of imported products, modified the conditions of competition to the detriment of imported products and was therefore inconsistent with Art. III:4. The Panel concluded that India had established, and the United States had not rebutted, that each measure at issue was inconsistent with Art. III:4 of the GATT 1994.

3. OTHER ISSUES²

- **Judicial economy:** The Panel did not find it necessary to address India’s claims under the TRIMs Agreement in order to provide a positive solution to the dispute and exercised judicial economy with regard to these claims. The Panel also found that the United States bringing its measures at issue into conformity with its obligations pursuant to Art. III:4 of the GATT 1994 would remove any inconsistency of those measures with Arts. 3.1(b) and 3.2 of the ASCM. For this reason, the Panel exercised judicial economy and refrained from addressing India’s claims under the ASCM.

¹ United States – Certain Measures Relating to the Renewable Energy Sector. Panel report subject to pending appeal.

² Other issues addressed: terms of reference; measures amended or repealed following the establishment of the panel; Art. XXIII:1(a) of the GATT 1994.