

**UNITED STATES – ANTI-DUMPING AND COUNTERVAILING MEASURES
ON STEEL PLATE FROM INDIA**

Understanding between India and the United States
Regarding Procedures under Articles 21 and 22 of the DSU

The following communication, dated 14 February 2003, from the Permanent Mission of India and the Permanent Mission of the United States, to the Chairman of the Dispute Settlement Body, is circulated at the request of these delegations.

India and the United States would like to inform the Dispute Settlement Body that they have agreed on the attached "Agreed Procedures under Articles 21 and 22 of the Dispute Settlement Understanding Applicable in the Follow-Up to the WTO Dispute: *United States – Anti-Dumping and Countervailing Measures on Steel Plate from India* (WT/DS206)".

We ask that you please circulate this notification to the Members of the Dispute Settlement Body.

(s) V.P. Haran
Chargé d'Affaires, a.i.
For India

(s) David P. Shark
Chargé d'Affaires, a.i.
For the United States

Agreed Procedures
under Articles 21 and 22 of the Dispute Settlement Understanding
Applicable in the Follow-Up to the WTO Dispute:
United States – Anti-Dumping and Countervailing Measures
on Steel Plate from India (WT/DS206)

The panel report in the WTO dispute, *United States – Anti-Dumping and Countervailing Measures on Steel Plate from India* (WT/DS206/R) between India and the United States of America ("the United States"), was adopted by the Dispute Settlement Body ("DSB") on 29 July 2002. On 1 October 2002, pursuant to Article 21.3(b) of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), India and the United States agreed on the reasonable period of time for implementation of the DSB's recommendations and rulings in this dispute (WT/DS206/7 dated 3 October 2002). According to the terms of the agreement, the implementation process was to be completed by 29 December 2002. The reasonable period of time was further extended by mutual agreement until 31 January 2003 (WT/DS206/8 dated 24 January 2003).

India and the United States have agreed on the following procedures:

1. Should India consider that the situation described in Article 21.5 of the DSU exists, India will request consultations which the parties agree to hold within 12 days from the date of circulation of the request. India and the United States agree that at the end of such consultations, should either party so state, the parties will jointly consider that the consultations have failed to settle the dispute.
2. Thenceforward, India will be entitled to request the establishment of a panel pursuant to Article 21.5 of the DSU (the "Article 21.5 compliance panel").
3. At the first DSB meeting in which India's request for the establishment of an Article 21.5 compliance panel appears as an item on the agenda, the United States will accept the establishment of that panel.
4. India and the United States will cooperate to enable the Article 21.5 compliance panel to circulate its report within 90 days of the panel's establishment, excluding such time during which the panel's work may be suspended pursuant to Article 12.12 of the DSU.
5. In case of an appeal of the Article 21.5 compliance panel report, India and the United States will cooperate to enable the Appellate Body to circulate its report within no more than 90 days from the date of notification of the appeal to the DSB.
6. With respect to the adoption of the panel and Appellate Body reports in the Article 21.5 proceeding, the timeframes of Articles 16 and 17.14 of the DSU shall apply.
7. India will not request authorization to suspend concessions or other obligations under Article 22 until the adoption of the Article 21.5 reports. If on the basis of the result of proceedings under Article 21.5 of the DSU that might be initiated by India, India decides to initiate proceedings under Article 22 of the DSU, the United States will not assert that India is precluded from obtaining DSB authorization because India's request was made outside the 30 day time-period specified in the first sentence of Article 22.6 of the DSU. This is without prejudice to the rights of the United States to have the matter referred to arbitration in accordance with Article 22.6.

8. If India requests authorization to suspend concessions or other obligations pursuant to Article 22.2 of the DSU, and if the United States objects under Article 22.6 of the DSU to the level of suspension of concessions or other obligations and/or makes a claim under DSU Article 22.3, the matter shall be referred to arbitration pursuant to DSU Article 22.6. India will not pose any objection to the referral of the matter to such arbitration.
9. India and the United States agree to continue to cooperate in all matters related to these agreed procedures and not to raise any procedural objections to any of the steps set out herein. If during the application of these procedures, India and the United States consider that a procedural aspect has not been properly addressed, they will endeavour to find a solution within the shortest time possible that will not affect the other aspects and steps herein agreed.
10. These agreed procedures to not prejudice the rights of India or the United States to take any action or procedural step to protect their rights or interests, including the activation of any aspect of the provisions of the DSU.

Geneva, 14 February 2003

For India:

For the United States

(s) V.P. Haran
Chargé d'Affaires, a.i.
Permanent Mission of India

(s) David P. Shark
Chargé d'Affaires, a.i.
Permanent Mission of the United States
