

**UNITED STATES – DEFINITIVE SAFEGUARD MEASURES
ON IMPORTS OF CERTAIN STEEL PRODUCTS**

Request for Consultations by Brazil

The following communication, dated 21 May 2002, from the Permanent Mission of Brazil to the Permanent Mission of the United States and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

Upon instruction from my authorities, I hereby convey the request of the Government of Brazil for consultations with the United States pursuant to Article 4 of the Understanding of the Rules and Procedures Governing the Settlement of Disputes (DSU), Article XXII:1 of the General Agreement on Tariffs and Trade 1994 (GATT 1994), and Article 14 of the Agreement on Safeguards, with regard to the imposition of definitive safeguards measures by the US Government on imports of certain steel products.

The subject measures were imposed pursuant to *Proclamation 7529 of March 5, 2002 - To Facilitate Positive Adjustment to Competition from Imports of Certain Steel Products* and the *Memorandum of March 5, 2002 - Action Under Section 201 of the Trade Act of 1974 Concerning Certain Steel Products* published in volume 67, No. 45 of the Federal Register of 7 March 2002.

The subject measures are in the form of increased duties on imports of flat carbon steel products, tin mill products, hot-rolled and cold-finished bar, rebar, certain tubular products, carbon and alloy fittings and flanges, stainless steel bar, stainless steel rod and stainless steel wire and a tariff rate quota on imports of carbon steel slab.

The Government of Brazil considers these measures by the United States to be inconsistent with its obligations under the relevant provisions of the GATT 1994 and the Agreement on Safeguards. In particular, but not limited to, the US is considered to be in breach of the following obligations:

1. Articles 2.1 and 4 of the Agreement on Safeguards because, *inter alia*, the determinations and resulting measures were not based on proper determinations of "like or directly competitive products" or of the domestic producers of products like or directly competitive with the imported products.
2. Article 2:1 and 4 of the Agreement on Safeguards because, *inter alia*, the determinations were deficient in terms of the requirements that imports be "in such increased quantities, absolutes or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products".

3. Article 4.2(b) of the Agreement on Safeguards because, *inter alia*, the determination failed to ensure that injury from other factors was not attributed to imports.
4. Article XIX:1(a) of the GATT 1994 and Article 3:1 of the Agreement on Safeguards because, *inter alia*, of failure to establish that the increased imports and the conditions of their importation were the result of "unforeseen developments" and the effects of obligations assumed under the GATT 1994.
5. Article I:1 of the GATT 1994 and Article 2.2 of the Agreement on Safeguards because, *inter alia*, the measures discriminate based on source.
6. Article 2.1 of the Agreement on Safeguards, read in conjunction with Article 2.2, because, *inter alia*, the determination failed to respect the requirement of parallelism between the scope of the investigation of injury and the scope of the safeguards measures.
7. Article 3 of the Agreement on Safeguards because, *inter alia*, of the failure to afford an opportunity for sufficient participation by interested parties and to conduct an adequate investigation, including undue reliance on confidentiality restriction to bar disclosure of information and the failure to set forth in the published report the findings and reasoned conclusions on all pertinent issues of fact and law, including the justification for the exclusion of Canada and Mexico and for the actual measures imposed by the President.
8. Article 5 of the Agreement on Safeguards because, *inter alia*, the relief exceeded that necessary to prevent or remedy serious injury and to facilitate adjustment.
9. Article XVI of the Marrakesh Agreement establishing the WTO because, *inter alia*, the United States has failed to ensure conformity of its laws, regulations and administrative procedures with the obligations under the Agreement on Safeguards and the GATT 1994.

The Government of Brazil reserves its rights to raise additional factual and legal issues during the course of the consultations and in any request for the establishment of a panel. It also reserves all rights regarding the pursuit of remedies under the Agreement on Safeguards and the DSU.

In light of the DSU provisions governing this matter, my authorities look forward to receiving in due course a reply from the United States to this request. Brazil is ready to consider with the United States mutually convenient dates to hold consultations in Geneva.
