

Original: English

**EUROPEAN COMMUNITIES – PROVISIONAL SAFEGUARD MEASURES
ON IMPORTS OF CERTAIN STEEL PRODUCTS**

Request for Consultations by the United States

The following communication, dated 30 May 2002, from the Permanent Mission of the United States to the Permanent Delegation of the European Commission and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request consultations with the European Communities (EC) pursuant to Article 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 1994* (GATT 1994) and Article 14 of the *Agreement on Safeguards* with regard to the EC's imposition of provisional safeguard measures against imports of certain steel products. The measures in question include Commission Regulation (EC) No 560/2002 of 27 March 2002¹, as well as any amendments thereto or extensions thereof, and any related measures.

These measures appear to be inconsistent with the EC's obligations under the provisions of GATT 1994 and of the *Agreement on Safeguards*. In particular, the United States believes that the measures are inconsistent with at least the following provisions:

- Article 6 of the *Agreement on Safeguards*, in conjunction with Articles 2.1, 4.1 and 4.2 of the *Agreement on Safeguards* and Article XIX of the GATT 1994, which permits the taking of a provisional safeguard measure only pursuant to a preliminary determination that there is clear evidence that increased imports have caused or are threatening to cause serious injury to the domestic industry that produces like or directly competitive products.
- Article 6 of the *Agreement on Safeguards* and Article XIX of the GATT 1994, which provide that Members may take provisional safeguard measures only in critical circumstances, where delay would cause damage which it would be difficult to repair.
- Articles 3 and 6 of the *Agreement on Safeguards*, which, *inter alia*, (1) require that any provisional safeguard measure be taken only pursuant to a preliminary determination based on clear evidence; (2) require that any safeguard measure be taken only following an investigation by the competent authorities of the Member pursuant to procedures previously established and made public in consonance with Article X of the GATT 1994; (3) require notice and opportunity for all interested parties to be heard; and (4) require the publication of a report setting forth findings and reasoned conclusions reached on all pertinent issues of fact and law.

¹ OJ L 85/1, 28 March 2002.

- Article 12.1 of the *Agreement on Safeguards*, which requires Members immediately to notify the Committee on Safeguards upon (a) initiating an investigation relating to serious injury or threat thereof and the reasons for it, (b) upon making a finding of serious injury or threat thereof caused by increased imports, and (c) taking a decision to apply or extend a safeguard measure.
- Article 2.2 of the *Agreement on Safeguards*, and Article I of the GATT 1994, by applying its safeguard measures to the goods of some WTO Members, while excluding the goods of other countries whose territories are not part of a free trade area or a customs union and who are not developing country WTO Members.
- Article XIX:1(a) of the GATT 1994, which allows a WTO Member to impose a safeguard measure only if, as a result of unforeseen developments, a product is being imported in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of the like or directly competitive products.

We look forward to receiving your reply to this request and to fixing a mutually acceptable date for consultations.
