

**UNITED STATES – ANTI-DUMPING MEASURES ON
CERTAIN HOT-ROLLED STEEL PRODUCTS FROM JAPAN**

Notification of an Appeal by the United States
under paragraph 4 of Article 16 of the Understanding on Rules
and Procedures Governing the Settlement of Disputes (DSU)

The following notification, dated 25 April 2001, sent by the United States to the Dispute Settlement Body (DSB), is circulated to Members. This notification also constitutes the Notice of Appeal, filed on the same day with the Appellate Body, pursuant to the *Working Procedures for Appellate Review*.

Pursuant to Article 16 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (DSU) and Rule 20 of the *Working Procedures for Appellate Review*, the United States hereby notifies its decision to appeal to the Appellate Body certain issues of law covered in the Panel Report on *United States – Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan* (WT/DS184/R) and certain legal interpretations developed by the Panel.

The United States seeks review by the Appellate Body of certain Panel conclusions which are in error and are based upon erroneous findings on issues of law and on related legal interpretations with respect to various provisions of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("AD Agreement") and the Marrakesh Agreement Establishing the World Trade Organization ("Marrakesh Agreement"). These conclusions are:

- (1) the Panel's conclusions "that section 735(c)(5)(A) of the Tariff Act of 1930, as amended, which mandates that USDOC exclude only margins based entirely on facts available in determining an all others rate, is inconsistent with Article 9.4 of the AD Agreement, and that therefore the United States acted inconsistently with its obligations under Article 18.4 of the AD Agreement and Article XVI:4 of the Marrakesh Agreement by failing to bring that provision into conformity with its obligations under the AD Agreement", and that the application of this provision in this case was therefore inconsistent with the United States' obligations under Article 9.4 of the AD Agreement;
 - (2) the Panel's conclusions that the United States acted inconsistently with Article 2.1 of the AD Agreement in (a) excluding certain home-market sales to affiliated parties from the calculation of normal value on the basis of the "arm's length" test, and (b) replacing those sales with sales to unaffiliated downstream purchasers;
 - (3) the Panel's conclusion that the United States acted inconsistently with Article 6.8 and Annex II of the AD Agreement in its application of "facts available" to Nippon Steel Corporation, NKK Corporation, and Kawasaki Steel Corporation.
-