

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

Request for the Establishment of a Panel by China

The following communication, dated 27 May 2002, from the Permanent Mission of China to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

By proclamation No. 7529 of 5 March 2002, entitled "To Facilitate Positive Adjustment to Competition from Imports of Certain Steel Products" and explained in a Memorandum of 5 March 2002, entitled "Action Under Section 203 of the Trade Act of 1974 Concerning Certain Steel Products by the President of the United States of America" (published in the Federal Register Vol. 67, No. 45 of 7 March 2002), the United States of America (the US) imposed definitive safeguard measures in the form of an increase in duties on imports of certain steel products and in the form of tariff rate quota on imports of "slabs". These measures are effective as of 20 March 2002.

In the view of People's Republic of China (China), these measures and the reports of the US International Trade Commission (the ITC) to which they refer are inconsistent with the US obligations under the covered agreements within the meaning of Article 1.1 of the Understanding on Rules and Procedures Governing the Settlement of Dispute (DSU).

On 26 March 2002, China initiated the procedures under Article 4 of the DSU, Article XXII:1 of the General Agreement on Tariffs and Trade 1994 (GATT 1994) and Article 14 of the Agreement on Safeguards by requesting the US to enter into consultations. The request was circulated in document WT/DS252/1, G/L/532, G/SG/D23/1 of 2 April 2002. Consultations were held in Geneva on 11-12 April 2002. Consultations have allowed a better understanding of the respective positions but have failed to settle the dispute.

In order to resolve this dispute, China hereby requests the establishment of a panel pursuant to Article 6 of the DSU, Article XXIII of the GATT 1994 and Article 14 of the Agreement on Safeguards with regard to the above definitive safeguard measures imposed by the United States on imports of certain steel products.

Specifically, China claims and requests the Panel to find that the US safeguard measures are inconsistent with the provisions of the GATT 1994 and of the Agreement on Safeguards, in particular:

1. Article XIX:1 of the GATT 1994, since the precondition of the "unforeseen developments" was not satisfied;
2. Article 2.1 of the Agreement on Safeguards, since there were no increased imports for many of the imported products under investigation;

3. Articles 2.1, 4.2(a) and 4.2(b) of the Agreement on Safeguards, since, for certain products, there was an incorrect definition of "the product concerned" in order to determine any increase of imports and since some of the US measures do not apply to "a product";
4. Articles 2.1 and 4.2(a) in conjunction with Article 4.1(c) of the Agreement on Safeguards, since, for certain products, there was an incorrect definition of the relevant domestic industries that produce like or directly competitive products to those allegedly being imported in increased quantities;
5. Articles 2.1 and 4.2(a) of the Agreement on Safeguards, since there was no serious injury or threat of serious injury being suffered by the relevant domestic industries;
6. Articles 2.1 and 4.2(b) of the Agreement on Safeguards, since any increase in imports that may have occurred did not cause any serious injury or threat of serious injury that may have been suffered by the relevant domestic industries, in particular because injury was not being suffered by the relevant domestic industries and because injury or threat thereof caused by other factors was attributed to imports;
7. Article 5.1 of the Agreement on Safeguard, since the US safeguard measures are not applied only to the extent necessary to prevent or remedy serious injury;
8. Articles 2.1, 4.2 and 5.1 of the Agreement on Safeguards since there is a lack of parallelism between the products for which an increase in imports was found or claimed and the products in respect of which the protective measures were imposed;
9. Article 5.2 of the Agreement on Safeguards and Article XIII of the GATT 1994, since the determination and the allocation of the tariff rate quota for slabs were incorrect and/or discriminatory;
10. Article 9.1 of the Agreement on Safeguards, since imports of some steel products from China as a developing country, were not excluded from the application of the safeguard measures;
11. Article I:1 of the GATT 1994 and Article 2.2 of the Agreement on Safeguards, since the US measures discriminate between products originating in China and products originating in other countries;
12. Article 3.1 of the Agreement on Safeguards, since neither the Report of the Investigation nor the other relevant documents set forth adequately the findings and reasoned conclusions on all pertinent issues of fact and law, including the justification for the measures actually imposed and for all other elements mentioned above; and Article 4.2(c) of the Agreement on Safeguards, since the above-mentioned documents did not provide the analysis and demonstration required;
13. Articles 12.1, 12.2 and 12.3 of the Agreement on Safeguard since the US failed to provide immediate notification with all pertinent information and deprived adequate opportunity for prior consultation with China having a substantial interest as exporters of the products concerned;
14. Article 8.1 of the Agreement on Safeguards, since the US failed to endeavour, in accordance with Article 12.3, to maintain a substantially equivalent level of concessions and other obligations between it and China;

15. Article II of the GATT 1994, since the US measures consist of withdrawal or modification of US concessions without justification under Article XIX of the GATT 1994 nor the Agreement on Safeguards nor any other provisions of the WTO Agreement.

China requests that the panel be established with the standard terms of reference set out in Article 7 of the DSU.
