

**UNITED STATES - SECTION 776 OF THE TARIFF ACT OF 1930**

Request for Consultations by the European Communities

The following communication, dated 5 November 2004, from the delegation of the European Communities to the delegation of the United States and to the Chairperson of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

On behalf of the European Communities (the "EC"), I hereby request consultations with the United States of America pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes, Article XXII:1 of the General Agreement on Tariffs and Trade 1994 (the "GATT") and Article 17 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the "ADA").

This request concerns Section 776 of the Tariff Act of 1930, as amended, and the determinations of dumping by the DOC and the DOC notice for the imposition of the anti-dumping duty of 125.77% with respect to Firth Rixson Special Steels Limited (FRSS) in *Stainless Steel Bar from the United Kingdom* (67 FR 3146 of 23 January 2002 and 67 FR 10381 of 7 March 2002).

The matters which the EC would like to raise in the course of the consultations, include, but are not limited to, the following:

- the Tariff Act of 1930, in particular section 776, together with any relevant statements in the Statement of Administrative Action that accompanied the adoption of the Uruguay Round Agreements Act (the "URAA");
- the refusal by DOC to verify the data submitted by FRSS and the rejection of such data for the determination of the margin of dumping of FRSS;
- the decision by the DOC to employ an "adverse inference" in the selection of facts available with respect to FRSS;
- the reliance by the DOC on information contained in the complaint for the establishment of the margin of dumping and anti-dumping duty of FRSS.

The EC is concerned that the above-mentioned measures, dumping determinations and anti-dumping duty appear to be, in several respects, not in conformity with the obligations of the United States under the GATT and the ADA, in particular under:

- Articles 1, 6 (including paragraphs 6, 8 and 13) and Annex II ADA,

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- Articles VI:1 and VI:2 of the GATT,
- Article 18.4 ADA and Article XVI:4 of the WTO Agreement.

We reserve the right to raise additional claims and legal issues regarding the above-mentioned matters during the course of the consultations.

We look forward to receiving your reply to this request and to setting a mutually convenient date for these consultations.

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