

**EGYPT – DEFINITIVE ANTI-DUMPING MEASURES
ON STEEL REBAR FROM TURKEY**

Request for the Establishment of a Panel by Turkey

The following communication, dated 3 May 2001, from the Permanent Mission of Turkey to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

On 6 November 2000 Turkey requested consultations with Egypt pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Article XXIII of the General Agreement on Tariffs and Trade 1994 (GATT 1994) and Article 17.3 of the Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement) with regard to the definitive anti-dumping measures imposed by Egypt on imports of concrete steel reinforcing bar (rebar) from Turkey. The request was notified to the Dispute Settlement Body (DSB) and was circulated to WTO Members (WT/DS211/1 of 7 November 2000).

Turkey considers that the above-mentioned measures are inconsistent with Article X:3 of the GATT 1994, Articles 2.2, 2.4, 3.1, 3.4, 3.5, 6.1, 6.2, 6.6, 6.7, 6.8 and Annex II, paragraphs 1, 3, 5, 6 and 7 and Annex I, paragraph 7 of the Anti-Dumping Agreement and, as a result, nullify and impair the benefits accruing to Turkey under the Anti-Dumping Agreement and GATT 1994.

Specifically, the claims submitted by Turkey may be summarized as follows:

1. The Egyptian investigative authority (the Egyptian Ministry of Trade and Supply (MTS)) rendered determinations of injury and dumping in its investigation without proper establishment of the facts and based on an evaluation of the facts that was neither unbiased nor objective.
2. During the investigation of material injury or threat thereof, the MTS failed to establish, by "positive evidence", that imports from Turkey were the cause of material injury to the domestic industry in Egypt, in violation of Articles 3.1 and 3.5 of the Anti-Dumping Agreement. The MTS did not investigate whether there were any sales lost by the domestic industry to imports from Turkey, or whether in specific transactions involving head-to-head competition the domestic producers were forced to lower their prices to meet import competition from Turkey. The MTS also failed to investigate whether the domestic purchasers considered imports from Turkey, imports from some other source, or the domestic companies to be the price leaders in the market. There is no evidence on the public record of head-to-head competition between imports and the domestic producers other than the bare allegations submitted by the Egyptian producers in their application for anti-dumping measures.
3. The MTS also failed to take account of, and improperly attributed to Turkish imports, the effect of other factors that had a substantial adverse effect on the Egyptian industry and of other,

neutral factors that caused prices to fall. These actions were inconsistent with Articles 3.1, 3.4 and 3.5 of the Anti-Dumping Agreement. Such factors include, but are not limited to, a large-scale capacity expansion by the Egyptian rebar producers during the period of review, the effects of non-subject imports from third countries, falling worldwide prices for steel scrap and a sudden contraction in domestic demand in January 1999, when the MTS found its first evidence of falling domestic prices.

4. Moreover, during the investigation of material injury or threat thereof, the MTS failed to examine "all relevant economic factors and indices having a bearing on the state of the industry", in violation of Article 3.4 of the Anti-Dumping Agreement.

5. The public record of the injury investigation fails to disclose whether the MTS compared prices of domestic products and prices of imports on a comparable, delivered basis. Turkey considers that the MTS failed to establish the existence of price undercutting by imports as required by Articles 3.1 and 3.2 of the Anti-Dumping Agreement.

6. During the course of its investigation, the MTS changed the scope of its injury investigation – from an investigation focused on the existence of threat of injury to an investigation focused on the existence of present injury – without giving adequate notice to the Turkish respondents and without giving respondents an opportunity to submit evidence on the existence of present material injury, in contravention of Articles 6.1 and 6.2 of the Anti-Dumping Agreement.

7. The investigation period considered by the MTS in its anti-dumping investigation was 1 January 1998 – 31 December 1998. The MTS relied on purported evidence of injury to the domestic industry from a later period (the first quarter of 1999) for its affirmative injury determination. In doing so, the MTS failed to establish that the dumped imports were, through the effects of dumping, causing injury under Articles 3.1 and 3.5 of the Anti-Dumping Agreement.

8. During the sales-at-less-than-normal-value investigation, the MTS's request for substantial new cost information and substantiation of the accuracy of respondent's original responses late in the anti-dumping duty proceeding, after normal time for issuing questionnaires and well after the verification took place, severely prejudiced respondents and was inconsistent with Annex II, paragraph 1, Annex I, paragraph 7 and Articles 2.4, 6.1, 6.6 and 6.7 of the Anti-Dumping Agreement. In addition, the deadlines imposed for responses to the MTS' supplemental requests for information were unreasonably short, resulting in an improper determination to resort to facts available, in violation of Articles 6.1.1 and 6.2 and Annex II, paragraph 6 of the Anti-Dumping Agreement.

9. The factual basis cited by the MTS for seeking large amounts of supplemental cost information late in the anti-dumping duty proceeding were unfounded and were shown to be unfounded in subsequent submissions by the Government of Turkey and the Turkish company respondents. The MTS' subsequent decision to rely on "facts available" was based on an improper determination of the facts in the investigation and on an evaluation of the facts that was neither unbiased nor objective. In addition, that determination was inconsistent with Article X:3 of the GATT 1994 and Articles 2.4, 2.2.1.1, 2.2.2, and 6.8 and paragraphs 3, 5, 6 and 7 of Annex II to the Anti-Dumping Agreement.

10. The MTS' refusal to schedule a meeting during which respondents could explain their responses to the Supplemental Questionnaires was in contravention of Article X:3 of the GATT, as well as Article 6.2 and Annex II, paragraph 6 of the Anti-Dumping Agreement.

11. The MTS' selection of particular data as "facts available" was neither proper nor unbiased nor objective. The costs employed as "facts available" were, in most cases, much higher than actual contemporaneous costs experienced by the respondents, as shown by other, reliable data, including

the Turkish government submission, developed during the investigation. As a result, the costs selected as "facts available" produced an unfair and unreasonable comparison between normal value and the export price in violation of Articles 2.4, 2.2.1.1, 2.2.2 and 6.8 and Annex II, paragraph 5 and Annex II, paragraph 7 of the Anti-Dumping Agreement.

12. The MTS' failure to offset interest expenses with short-term interest income earned in determining cost of production was inconsistent with Articles 2.2.1, 2.2.1.1 and 2.2.2 of the Anti-Dumping Agreement.

13. The MTS' failure to make an adjustment to the normal value for imputed credit expenses between the date of shipment and the date of payment was inconsistent with Article 2.4 of the Anti-Dumping Agreement.

Consultations were held in Cairo and Ankara on 3-5 December 2000 and 3-4 January 2001, respectively. The consultations have allowed for a better understanding of the positions of the respective parties, but have not lead to a mutually satisfactory resolution of the matter.

Turkey, therefore, in conformity with Article 6 of the DSU and Article 17 of the Anti-Dumping Agreement, respectfully requests the establishment of a panel with the standard terms of reference as provided for in Article 7 of the DSU to examine and find that Egypt's final anti-dumping measure is inconsistent with its obligations under the Anti-Dumping Agreement and GATT 1994.

Turkey asks that this request be placed on the agenda for the meeting of the Dispute Settlement Body scheduled to be held on 16 May 2001.
