

UNITED STATES – ANTI-DUMPING ACT OF 1916

Request for the Establishment of a Panel by Japan

The following communication, dated 3 June 1999, from the Permanent Mission of Japan to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

On 10 February 1999, the Government of Japan requested consultations with the Government of the United States, pursuant to Article XXII of the General Agreement on Tariffs and Trade 1994 (GATT 1994), Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) and Article 17 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Anti-Dumping Agreement) regarding the United States Anti-Dumping Act of 1916, 15 U.S.C. 72 (1994).

On 17 March 1999, the Government of Japan and the Government of the United States held consultations in Geneva. These consultations allowed for a better understanding of the respective positions, but failed to settle the dispute on this matter in a satisfactory manner.

Therefore, the Government of Japan hereby requests that a panel be established with the standard terms of reference provided for in Article 7.1 of the DSU at the next meeting of the Dispute Settlement Body (DSB), pursuant to Article XXII of GATT 1994, Articles 4 and 6 of the DSU and Article 17 of the Anti-Dumping Agreement regarding the United States Anti-Dumping Act of 1916, and that the Panel consider and find that the United States Anti-Dumping Act of 1916 is neither consistent with nor justified by the following relevant provisions:

- (1) Article III:4 of the GATT 1994 which requires that imported products shall be accorded treatment no less favorable than that accorded to like domestic products in respect of all laws, regulations and requirements affecting their internal sales etc.
- (2) Article VI of GATT 1994 and the Anti-Dumping Agreement, and in particular:
 - Article VI:2 of GATT 1994 and Article 18.1 of the Anti-Dumping Agreement which permit imposition of anti-dumping duties as the only possible remedies for dumping;
 - Articles 1, 2, 3, 4, 5, 9 and 11 of the Anti-Dumping Agreement which stipulate necessary requirements for an anti-dumping duty to be applied only under the circumstances provided for in Article VI of GATT 1994.
- (3) Article XI of GATT 1994 which provides that no prohibitions or restrictions other than duties, taxes or other charges shall be instituted or maintained on the importation of any product of other Members.

- (4) Article XVI:4 of Marrakesh Agreement establishing the World Trade Organization (WTO) which confirms the obligation of WTO Members to ensure the conformity of their laws with their obligations as provided in the WTO Agreements, and Article 18.4 of the Anti-Dumping Agreement which confirms their obligations with respect to the Anti-Dumping Agreement.

The Government of Japan asks that this request be placed on the agenda for the meeting of the DSB to be held on 16 June 1999.
