

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

Request for the Establishment of a Panel by Switzerland

The following communication, dated 3 June 2002, from the Permanent Mission of Switzerland to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

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Under the "Proclamation 7529 of March 5, 2002 – To Facilitate Positive Adjustment to Competition from Imports of Certain Steel Products" and the "Memorandum of March 5, 2002 – Action Under Section 203 of the Trade Act of 1974 Concerning Certain Steel Products by the President of the US", published in the Federal Register Vol. 67, No. 45 of 7 March 2002, the US imposed definitive safeguard measures on imports of certain steel products effective as of 20 March 2002.

On 3 April 2002, Switzerland initiated the procedures under Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (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 Government of the United States to enter into consultations. The request was circulated in document WT/DS253/1, G/L/533, G/SG/D24/1 of 8 April 2002. Consultations were held in Geneva on 11-12 April 2002. Consultations have allowed a better understanding to the respective positions but have failed to settle the dispute.

In order to solve this dispute, Switzerland 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 steel products.

Switzerland considers that the US 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 DSU and have resulted in the nullification and impairment of benefits accruing to Switzerland directly or indirectly under such agreements.

In particular, Switzerland claims and requests the Panel to find that the US safeguard measures are in violation of the US obligations under provisions of GATT 94 and of the Agreement on Safeguards, in particular, because:

1. The precondition of "unforeseen developments" laid down in Article XIX:1 of the GATT 1994 was not satisfied;

2. The safeguard measures were imposed in the absence of the requisite increase in import volume for many of the imported products under investigation and are therefore inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards;
3. The determination of the relevant domestic industries that produce like or directly competitive products to those allegedly being imported in increased quantities, as required by Articles 2.1 and 4 of the Agreement on Safeguards is incorrect;
4. The safeguard measures are inconsistent with Article 2.1 in conjunction with Articles 2.2 and 4.2 of the Agreement on Safeguards, in that the requirement of parallelism between the scope of the investigation of the injury arising from imported products and the scope of the safeguard measures is not met;
5. The United States failed to demonstrate, as required by Articles 2.1 and 4.2 (b) of the Agreement on Safeguards, causality between the increased imports and serious injury and to ensure that serious injury caused by factors other than increased imports was not attributed to increased imports;
6. The safeguard measures exceed the extent necessary to prevent or remedy serious injury and to facilitate adjustment, and thus are in violation of Article 5(1) of the Agreement on Safeguards. The safeguard measures were not limited to the serious injury caused by increased imports;
7. The United States violated Article 8.1 of the Agreement on Safeguards because they failed to maintain a substantially equivalent level of concessions and other obligations between the exporting Member and the United States;
8. 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, as required by Article 3.1 of the Agreement on Safeguards; nor did they provide the analysis and demonstration required by Article 4.2 (c) of the Agreement on Safeguards.

Switzerland requests the establishment of a panel pursuant to the standard terms of reference set out in Article 7 of the DSU.

Switzerland asks that this request be placed on the agenda of the next meeting of the Dispute Settlement Body.

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