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

Request for Consultations by New Zealand

The following communication, dated 14 May 2002, from the Permanent Mission of New Zealand to the Permanent Mission of the United States and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

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My authorities have instructed me to request consultations with the Government of the United States pursuant to 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, with regard to the safeguard measures on steel imposed by the US on imports of certain steel products.

Pursuant to "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 U.S.", published in the Federal Register Vol.67, No 45 of 7 March 2002, the United States has imposed safeguard measures, with effect from 20 March 2002, in the form of an increase in duties on imports of certain steel products and in the form of a tariff rate quota on imports of steel slabs.

New Zealand considers that the United States measures are in breach of the obligations of the United States under the provisions of the GATT 1994 and the WTO Agreement on Safeguards, in particular but not necessarily exclusively, of:

- Article 2.1 of the Agreement on Safeguards, because, *inter alia*, they are based on deficient determinations on the like or directly competitive products, absence of "imports in such increased quantities" and/or "under such conditions", lack of serious injury or threat thereof, lack of causality, and non-respect of the requirement of parallelism between the scope of the imported products subject to the investigation and the scope of the imported products subject to the application of measures;

- Article 2.2 of the Agreement on Safeguards, because, *inter alia*, the US failed to apply the measure to all imports irrespective of their source;

- Articles 3.1 and 3.2 of the Agreement on Safeguards, because, *inter alia*, the US did not provide appropriate means through which the interested parties could present their evidence and views; and the report published by the competent authorities did not set forth adequately the findings

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and reasoned conclusions on all pertinent issues of fact and law, including the justification for the actual measure imposed;

- Articles 4.1 and 4.2 of the Agreement on Safeguards, because, *inter alia*, the US measures are not justified by "imports in such increased quantities and/ or "under such conditions", lack of serious injury or threat thereof, lack of causality, and non-respect of the requirement of parallelism between the scope of the imported products subject to the investigation and the scope of the imported products subject to the application of the measures;

- Article 5.1 of the Agreement on Safeguards, since, *inter alia*, the US measures grant relief beyond "the extent necessary to prevent or remedy serious injury and to facilitate adjustment";

- Article 7 of the Agreement on Safeguards, since, *inter alia*, they grant relief beyond "the period of time necessary to prevent or remedy serious injury and to facilitate adjustment";

- Article 8.1 of the Agreement on Safeguards, since the US did not seek to maintain a substantially equivalent level of concessions or other obligations;

- Article 12 of the Agreement on Safeguards, regarding, *inter alia*, the obligation to provide pertinent information and adequate opportunity for prior consultations regarding the application of a safeguard measure;

- Article 1.1 of the GATT 1994, since, *inter alia*, the safeguard measure discriminates between products originating in New Zealand and products originating in other WTO countries;

- Article X of GATT 1994 since, *inter alia*, they are not based on uniform, impartial and reasonable administration of the relevant US laws and regulations;

- Article XIX.1 of the GATT 1994, because, *inter alia*, they failed to show, prior to the application of the measures, that the increases in imports and the conditions of importation of the products covered by the above-mentioned measures were the result of "unforeseen developments" and of the effect of the US obligations under the GATT 1994.

New Zealand looks forward to receiving the United States response to the present request and to seeking a mutually convenient time and place to hold consultations.

New Zealand reserves its rights regarding the pursuit of the remedies provided for under the Agreement on Safeguards and the Dispute Settlement Understanding, and also reserves its rights to raise additional factual matters and legal claims during the course of the consultations and in any future request for panel proceedings.

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