

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

Request for the Establishment of a Panel by New Zealand

The following communication, dated 27 June 2002, from the Permanent Mission of New Zealand to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

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 US”, 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 and the reports of the United States International Trade Commission to which they refer fail to comply with the obligations of the United States under the covered agreements within the meaning of Article 1.1 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU).

In a communication dated 14 May 2002 (as circulated in WT/DS258/1), the Government of New Zealand requested consultations with the Government of the United States pursuant to Article 4 of the DSU, Article 14 of the Agreement on Safeguards and Article XXII:1 of the General Agreement on Tariffs and Trade 1994 (GATT 1994) with regard to the safeguard measures imposed by the United States. Consultations were held on 13 June 2002, and New Zealand and the United States jointly consider that the consultations have failed to settle the dispute.

In order to resolve this dispute, New Zealand hereby requests the establishment of a panel pursuant to Article 6 of the DSU, Article 14 of the Agreement on Safeguards and Article XXIII of the GATT 1994 to examine the measures in question, with the standard terms of reference as set out in Article 7 of the DSU.

Specifically, New Zealand claims and requests the Panel to find that the United States has failed to comply with its obligations under the GATT 1994 and the Agreement on Safeguards in the following respects:

- the United States has failed to demonstrate “unforeseen developments” as provided for in Article XIX:1 of the GATT 1994;
- the United States has failed to comply with the requirement of Article 2.1 of the Agreement on Safeguards that there be a requisite increase in imports before a safeguard measure is imposed;

- the United States has failed to correctly determine the domestic industry that produces like or directly competitive products, as required by Articles 2.1 and 4.2(a) of the Agreement on Safeguards;
- the United States has failed to demonstrate serious injury or threat of serious injury being suffered by the relevant domestic industries, as required by Articles 2.1 and 4.2(a) of the Agreement on Safeguards;
- the United States failed to demonstrate the existence of the requisite causal link between the alleged increased imports and the alleged serious injury or threat thereof, as required by Articles 2.1 and 4.2(a) of the Agreement on Safeguards. Furthermore, the United States attributed to imports injury caused by other factors, contrary to Article 4.2(b) of the Agreement on Safeguards;
- the United States failed to apply its safeguard measures only to the extent necessary to prevent or remedy serious injury as required by Article 5.1 of the Agreement on Safeguards;
- the United States granted relief beyond the period of time necessary to prevent or remedy any alleged serious injury and to facilitate adjustment, contrary to the requirements of Article 7 of the Agreement on Safeguards;
- the United States failed to satisfy the requirement of parallelism between the products for which an increase in imports within the meaning of Article 2.1 of the Agreement on Safeguards was found or claimed, and the products in respect of which the protective measures were imposed, contrary to the principles inherent in Articles 2.1, 2.2, 4.2 and 5.1 of the Agreement on Safeguards;
- the United States failed to apply its safeguard measures to product being imported irrespective of its source, as required by Article 2.2 of the Agreement on Safeguards;
- the United States failed to adequately set forth findings and reasoned conclusions on all pertinent issues of fact and law, including the justification for measures actually imposed and for all other elements mentioned above, as required by Article 3.1 of the Agreement on Safeguards; nor did it provide the analysis and demonstration required by Article 4.2(c) of the Agreement on Safeguards;
- the United States failed to meet its obligations under Article 8.1 of the Agreement on Safeguards regarding the maintenance of a substantially equivalent level of concessions and other obligations to that existing under GATT 1994;
- the United States did not administer in a uniform, impartial and reasonable manner, its laws, regulations, decisions and rulings relevant to the steel safeguard and therefore acted contrary to Article X:3(a) of the GATT 1994.

New Zealand asks that this request be placed on the agenda for a special meeting of the Dispute Settlement Body on 8 July 2002.
