

**UNITED STATES – DEFINITIVE SAFEGUARD MEASURES ON IMPORTS OF  
CIRCULAR WELDED CARBON QUALITY LINE PIPE FROM KOREA**

Request for the Establishment of a Panel by Korea

The following communication, dated 14 September 2000, from the Permanent Mission of Korea to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

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On 13 June 2000 the Government of the Republic of Korea requested consultations with the United States pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (the "DSU"), Article XXII:1 of the General Agreement on Tariffs and Trade 1994 (the "GATT 1994"), and Article 14 of the Agreement on Safeguards regarding the definitive safeguard measure imposed by the United States on imports of circular welded carbon quality line pipe ("line pipe"). This request was circulated in document WT/DS202/1 dated 15 June 2000.

Such consultation was held on 28 July 2000 in Geneva in an attempt to reach a mutually satisfactory solution. Unfortunately, the consultation has not led to a satisfactory solution of the matter.

Korea therefore requests that a panel be established pursuant to Article XXIII of GATT 1994, Articles 4 and 6 of DSU and Article 14 of the Agreement on Safeguards, with the standard terms of reference as set out in Article 7 of DSU.

Korea asks that this request be placed on the agenda for the next meeting of the Dispute Settlement Body, scheduled for 26 September 2000.

The Measure at Issue

The measure imposed by the United States at issue in this request is a definitive safeguard measure on imports of line pipe (subheadings 7306.10.10 and 7306.10.50 of the Harmonized Tariff Schedule of the United States) under the "Proclamation 7274 of February 18, 2000 – To Facilitate Positive Adjustment to Competition From Imports of Certain Circular Welded Carbon Quality Line Pipe" by the President of the United States 65 F.R. 9193 (Feb. 23, 2000) and the "Memorandum of February 18, 2000 – Action Under Section 203 of the Trade Act of 1974 Concerning Line Pipe" 65 F.R. 9197 (Feb. 23, 2000).

According to the United States, the safeguard measure is an increase in duty on imports of line pipe. The additional duty is 19 per cent *ad valorem* in the first year of relief, declining to 15 and 11 per cent *ad valorem* in the second and third years, respectively. Each year, the first 9,000 short tons of imports from each country will be excluded from the increase in duty. The safeguard measure,

however, does not apply to imports from Canada and Mexico. The date of introduction of the measure is 1 March 2000, and it is expected to be in effect for a period of 3 years and 1 day.

The Legal Basis for the Complaint

Korea considers that the United States is in violation of its obligations under the GATT 1994 and the Agreement on Safeguards in the following respects:

1. The United States failed to abide by the provisions of Article XIX of GATT 1994 as well as Articles 2, 3 and 4 of the Agreement on Safeguards with respect to the investigation, findings, and decision regarding increased imports, injury, threat of injury and causation. The investigation and decision disregarded numerous fundamental requirements contained in those provisions.
2. The United States also failed to fulfill the requirements of Article XIX of GATT 1994 and Articles 2, 4 and 11 of the Safeguards Agreement with respect to the requirement of "emergency action" and "unforeseen developments."
3. The safeguard measure also violates Articles 5 and 7.1 of the Agreement on Safeguards since the United States did not justify and could not justify that the Measure was imposed only to the extent and for such period of time necessary to prevent or remedy the injury and to facilitate adjustment.
4. The United States failed to abide by Article 5 of the Agreement on Safeguards as well as Article XIII of GATT 1994 since a tariff-rate quota imposed by the United States with the in-quota amount set at 9,000 tons and over-quota imports to be subject to an additional duty of 19 per cent *ad valorem* in the first year disregarded numerous fundamental requirements contained in those provisions, *inter alia* the United States did not properly define the overall quota amount of the tariff rate quota; it did not give proper notice thereof; and it did not base the tariff rate quota on a representative period or respect historical shares nor otherwise meet the requirements of those provisions.
5. The safeguard measure also violates Article 9.1 of the Agreement on Safeguards because the United States applied the safeguard measure against developing countries even though developing countries' share of imports did not exceed 3 per cent of imports individually nor collectively account for 9 per cent of total imports.
6. The United States violated Article 2.2 of the Agreement on Safeguards and Articles I, XIII and XIX of GATT 1994, by not applying the safeguard measure on an MFN basis to all line pipes being imported, including Mexico and Canada.
7. The United States also violated Articles 2 and 4 of the Agreement on Safeguards by including Mexico and Canada in the analysis of injurious imports but by excluding Mexico and Canada from the application of the safeguard measure.
8. The United States also failed to meet the requirements of Articles 8 and 12.3 of the Agreement on Safeguards since it did not endeavour to maintain a substantially equivalent level of concession between the United States and exporting Members nor did the United States hold prior consultations with exporting Members where the same objective was discussed.
9. The United States failed to provide critical information on which it relied in its decision-making in violation of Articles 3 and 4 of the Agreement on Safeguards. In

this regard, the United States has failed to provide an adequate public summary of critical confidential information relied on in reaching its decision.

10. The United States also failed to properly notify the Measure and committed other procedural and substantive violations under Articles 12.1 and 12.2, as well as Article 12.5.

Korea requests that the panel consider and find that the Measure concerning imports of line pipe is inconsistent with the provisions of the WTO agreements as set forth above; nullifies or impairs benefits accruing to Korea under the Agreements; and impedes the achievement of the objectives of the WTO agreements. Korea, therefore, requests pursuant to Article 19 of the DSU that the panel recommend that the Dispute Settlement Body request the United States to revoke the safeguard measure on line pipe.

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