

Original: English

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

Request for Consultations by the European Communities

The following communication, dated 7 March 2002, from the Permanent Delegation of the European Commission 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.

---

The European Communities (EC) hereby requests consultations with the Government of the United States (US) 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 definitive safeguard measures imposed by the US on imports of certain steel products.

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 in the form of an increase in duties on imports of certain flat steel, hot-rolled bar, cold-finished bar, rebar, certain welded tubular products, carbon and alloy fittings, stainless steel bar, stainless steel rod, tin mill products and stainless steel wire and in the form of a tariff rate quota on imports of slabs effective as of 20 March 2002.

The EC considers that these US measures are in breach of the US obligations under the provisions of GATT 1994 and of the *Agreement on Safeguards*, in particular, but not necessarily exclusively, of:

- Articles 2(1) and 2(2) 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, 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 and discriminations based on the source of the products.
- Articles 3(1) and 3(2) of the *Agreement on Safeguards*, because, *inter alia*, the US did not allow appropriate means in which the interested parties could present evidence and their views, the report published by the competent authorities did not set forth adequately the findings and reasoned conclusions on all pertinent issues of fact and law, including the

justification for the actual measure imposed, as well as abusive recourse to confidentiality in relation to disclosure of information.

- Articles 4(1) and 4(2) of the *Agreement on Safeguards*, because, *inter alia*, they 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*, they grant relief beyond "the extent necessary to prevent or remedy serious injury and to facilitate adjustment".
- Article 5(2) of the *Agreement on Safeguards*, as regards the allocation of the tariff rate quota on imports of slabs.
- Article 7(1) 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 9(1) of the *Agreement on Safeguards* because, *inter alia*, they were applied against products originating in third countries whose shares of imports of the products concerned do not exceed 3 per cent while developing countries with less than 3 per cent import share collectively account for not more than 9 per cent of total imports of the products concerned.
- Article I:1 of the GATT 1994, since, *inter alia*, the safeguard measure discriminates between products originating in the EC and products originating in other WTO countries.
- Article XIII of the GATT 1994, as regards the allocation of the tariff rate quota on imports of slabs.
- Article XIX:1 of the GATT 1994, because, *inter alia*, they fail 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.

The EC looks forward to receiving the reaction of the authorities of the US to the present request and to setting a mutually convenient date and place to begin consultations.

The EC reserves all its rights regarding the pursuit of the remedies provided for under the *Agreement on Safeguards* and the Dispute Settlement Understanding.

A copy of this request is being sent to the Chairman of the Dispute Settlement Body and to the Chairman of the Council for Trade in Goods and the Chairman of the Committee on Safeguards.

---