

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

Request for the Establishment of a Panel by Brazil

The following communication, dated 18 July 2002, from the Permanent Mission of Brazil to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

On 5 March 2002, the President of the United States issued Proclamation No. 7529 entitled "To Facilitate Positive Adjustment to Competition from Imports of Certain Steel Products". The Proclamation was accompanied by a memorandum detailing "Action Under Section 203 of the Trade Act of 1974 Concerning Certain Steel Products by the President of the United States of America" (published in the Federal Register of 7 March 2002). The Proclamation and accompanying memorandum are the basis for the imposition of definitive safeguard measures on imports of certain steel products in the form of increased tariffs on certain products and a tariff rate quota on carbon and alloy steel slabs. These measures were made effective on 20 March 2002.

On 21 May 2002, the Government of Brazil initiated procedures pursuant to Article 4 of the *Understanding of the 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 imposition of these measures and the view of the Government of Brazil that the measures, the underlying investigations and ensuing reports, and the decision of the President to impose safeguards measures are inconsistent with US obligations under the GATT 1994 and the *Agreement on Safeguards* (WT/DS259/1, G/SG/D27/1, G/L/552). Consultations were held in Geneva on 13 June 2002. Both the US and Brazil agree that the consultations have failed to settle the dispute.

As a result of the failure to resolve the dispute, the Government of Brazil 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* regarding the safeguards measures imposed by the United States on imports of certain steel products. The Government of Brazil requests the panel make findings that the US measures are inconsistent with US obligations under Articles I:1, X:3 and XIX of the GATT 1994 and Articles 2, 3, 4 and 5 of the *Agreement on Safeguards*.

Specifically, the Government of Brazil's claims are based on the following:

1. Articles 2.1 and 4 of the *Agreement on Safeguards* and Article X:3 of the GATT 1994 because, *inter alia*, the determinations and resulting measures were not based on proper determinations of "like or directly competitive products" or of the domestic producers of products like or directly competitive with the imported products.

2. Article 2.1 and 4 of the *Agreement on Safeguards* and Article XIX:1 of the *GATT 1994* because, *inter alia*, the determinations of injury were not based on a proper determination of serious injury to the domestic industry.
3. Article 2:1 and 4 of the *Agreement on Safeguards* and Article XIX:1 of the *GATT 1994* because, *inter alia*, the determinations were deficient in terms of the requirements that imports be "in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products."
4. Articles 2.1 and 4.2(b) of the *Agreement on Safeguards* and Article XIX:1 of the *GATT 1994* because, *inter alia*, the determination failed to establish the necessary causal link between increased imports and injury and failed to ensure that injury from other factors was not attributed to imports.
5. Article XIX:1(a) of the *GATT 1994* and Article 3:1 of the *Agreement on Safeguards* because, *inter alia*, of failure to establish that the increased imports and the conditions of their importation were the result of "unforeseen developments" and the effects of obligations assumed under the *GATT 1994*.
6. Article I:1 of the *GATT 1994* and Article 2.2 of the *Agreement on Safeguards* because, *inter alia*, the measures discriminate based on source.
7. Article 2.1 of the *Agreement on Safeguards*, read in conjunction with Article 2.2, and Article 4.2(b) of the same Agreement because, *inter alia*, the determination failed to respect the requirement of parallelism between the scope of the investigation of injury and the scope of the safeguards measures.
8. Article 3 of the *Agreement on Safeguards* and Article X:3 of the *GATT 1994* because, *inter alia*, of the failure to afford an opportunity for sufficient participation by interested parties and to conduct an adequate investigation, including undue reliance on confidentiality restriction to bar disclosure of information and the failure to set forth in the published report the findings and reasoned conclusions on all pertinent issues of fact and law, including the justifications for the exclusion of Canada and Mexico, the actual measures imposed by the President, and the treatment afforded to tin mill products.
9. Article 5 of the *Agreement on Safeguards* because, *inter alia*, the relief exceeded that necessary to prevent or remedy serious injury and to facilitate adjustment.

The United States actions are also inconsistent with Article XVI of the *Marrakesh Agreement* establishing the WTO because the United States has failed to ensure conformity of its laws, regulations and administrative procedures with the obligations under the *Agreement on Safeguards* and the *GATT 1994*.

Brazil requests that the panel be established with the standard terms of reference set forth in Article 7 of the *DSU*. To this effect, Brazil also requests the inclusion of the corresponding item on the agenda of the next meeting of the Dispute Settlement Body, scheduled for 29 July 2002.

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