

**REQUEST FOR CONSULTATIONS FROM THE EUROPEAN COMMUNITIES
UNDER ARTICLE 12.3 OF THE AGREEMENT ON SAFEGUARDS**

Imposition of a Safeguard Measure by the United States
on Imports of Certain Steel Products

Supplement

The following communication, dated 15 March 2002, has been received from the Permanent Delegation of the European Commission.

Thank you for your letter of 11 March. As you say, the US action against steel imports has caused concern and uncertainty, not only in those countries who may be subject to the measures announced on 5 March, but also in countries that now face the prospect of trade diversion and the disruption to the world steel market that this announcement will cause.

The European Union deplores the US decision to go down the route of protectionism rather than waiting to see what could be achieved through multilateral discussions to address the real problems of the global steel market - uneconomic capacity and subsidies. As you know, the European Union had participated constructively in the various meetings at the OECD, which sought to address these issues.

But an internationally agreed solution could only have been found on the basis of equitable burden sharing. The United States' decision instead to shift the burden of its industry's problems to third countries undermines the efforts to find a consensus at the OECD. There is little point in urging "Members to continue our collective efforts to bring long-term stability and competitive health to the world steel market" when your country's unilateral move has just inflicted serious additional damage on that market.

Whilst we welcome your acknowledgement that "the US steel industry is not immune from the need for reform", we deeply regret the Administration's failure to bring forward any measures to deal with the underlying causes of your industry's difficulties - the enormous overhang of so-called "legacy costs" (i.e. health and pension obligations for laid off and retired workers). The fact that so many US firms are in financial difficulties, despite almost 200 US anti-dumping and anti-subsidy measures against steel imports and despite US steel prices being much higher than in the rest of the world¹, surely says something about their relative efficiency. Until the US is willing to tackle these issues, no amount of protectionism will enable its older plants to become internationally competitive.

¹ For example, hot-rolled coil prices are some 30 per cent higher than those in Europe.

The absence of any domestic restructuring proposals or requirements on the US industry therefore remains a major disappointment. It indicates that the US prefers to shift its problems to foreigners rather than accepting the responsibility of confronting tough domestic choices.

I do not, of course, dispute the right of WTO Members to take safeguard action **when the requirements of the Safeguards Agreement are met**. But we are confident that the dispute settlement procedures will be determined in our favour because the US misuse of safeguard measures is systemic. The US has already been challenged in four separate cases², and in each and every one, it has been condemned for WTO violations. In this case the US has blatantly failed to respect WTO requirements, either in procedural or substantive terms.

Safeguards should provide protection against a surge of imports - but US imports are falling. While no one could dispute that the ITC record is voluminous, it is far from clear which period the ITC believes shows a recent, sudden import increase given that since 1998 US imports fell by 33 per cent. Although you speak of "temporary tariffs increases on some steel products", I must point out that the proposed measures will apply to 14 of the 16 product categories where the ITC recommended action. I also note that, in its briefing of the US domestic press, the Administration is seeking to take credit for "providing a higher level of relief" than that recommended by the majority of the ITC Commissioners. It is hard to reconcile this with the restrained, carefully considered approach described in your letter.

Similarly the US is seeking to take credit for the exclusion of developing countries. In reality this is nothing more than an obligation which the US already has under the requirement of Article 9 of the Safeguards Agreement. And this exclusion will only apply to those countries that account for less than 3 per cent of US imports of each product.

In addition, I have some difficulty in following your reference to "calls for immediate compensation backed by threats of unilateral trade retaliation". The European Union has asked the United States to respect its obligation, under Article 8.1 of the Safeguards Agreement, "to maintain a substantially equivalent level of concessions and other obligations to that existing under GATT 1994". We continue to hope, against experience and notwithstanding the reported comments of some senior Administration officials, that the US will be prepared to honour its responsibilities in this area. In January, President Bush said, "There are some who play politics with the trade issue. They want to shut down trade. I like to remind people, those who shut down trade aren't confident. They're not confident in the American worker; they're not confident in the American entrepreneur; they're not confident in American products". In the light of the measures announced on 5 March, we can only assume that the US Administration no longer has confidence that the US steel industry will get its act together.

There can be no doubt that these measures will damage the competitiveness of US firms that use steel as a raw material, firms which are already paying far higher prices for their raw materials than their competitors in the rest of the world. And it is estimated that there are seven or eight times as many Americans employed in firms that use steel as in the steel industry itself. No doubt, considerations such as these caused the Chairman of the US Federal Reserve to question Mr. Bush's decision.

Since the US decision does nothing to assist the domestic industry to cope with legacy costs, there is no reason to suppose that the latest measures will do any more to restructure the US steel industry than the series of measures adopted over the last 20 years. Nor will this be any more successful than previous attempts to defend US safeguard actions in the WTO. The decision is bad

² By the EC for wheat gluten; Australia/New Zealand lamb; Pakistan cotton yarn; Korea steel line pipe.

for the US economy, bad for the international steel market and bad for the world trading system. The European Union will use the full resources of the WTO system to minimize this damage and seek appropriate redress.
