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

Request for Consultations by China

The following communication, dated 26 March 2002, from the Permanent Mission of China 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.

My authorities have instructed me to request consultations with the Government of the United States (US) under Article XXII:1 of the General Agreement on Tariffs and Trade (GATT 1994) and pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Article 14 of the Agreement on Safeguards (SGA) 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 U.S.", 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 People's Republic of China (China) considers that these US measures are in breach of the US obligations under the provisions of the GATT 1994 and of the SGA, in particular, but not necessarily exclusively, of:

1. Article 9(1) of the SGA, since, *inter alia*, imports of steel products from China, as a developing country, accounting for less than 3 per cent of the total imports, shall be excluded from the application of the safeguard measures.
2. Article 2(1) and 2(2) of the SGA, since, *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.
3. Article 3(1) and 3(2) of the SGA, since, *inter alia*, the U.S. 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

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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.

4. Articles 4(1) and 4(2) of the SGA, since, *inter alia*, they failed to meet the requirements of "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.
5. Article 5(1) of the SGA, since, *inter alia*, they grant relief beyond "the extend necessary to prevent or remedy serious injury and to facilitate adjustment".
6. Article 5(2) of the SGA and Article XIII of the GATT 1994, *inter alia*, as regards the allocation of the tariff rate quota on imports of slabs.
7. Article 7(1) of the SGA, since, *inter alia*, they grant relief beyond "the period of time necessary to prevent or remedy serious injury and to facilitate adjustment."
8. Article 8(1) of the SGA, since, *inter alia*, the US failed to endeavour, in accordance with the provisions of Article 12.3, to maintain a substantially equivalent level of concessions and obligations between it and the affected Members.
9. Article 12 of the SGA, since, *inter alia*, the US failed to provide immediate notification with all pertinent information and deprived adequate opportunity for prior consultations with those Members having a substantial interest as exporters of the product concerned. And moreover, the US held the consultation with China in Washington on 22 March 2002 after the safeguard measures took effect.
10. Article I:1 of the GATT 1994, since, *inter alia*, they discriminate between products originating in China and products originating in other WTO Members.
11. Article II of the GATT 1994, since *inter alia*, they consist of withdrawal or modification of US concessions without justification under Article XIX of the GATT 1994 nor the SGA nor any other provisions of the WTO Agreement.
12. Article X:3 of the GATT 1994, since, *inter alia*, they are not based on uniform, impartial and reasonable administration of the relevant US laws and regulations.
13. Article XIX:1 of the GATT 1994, since *inter alia*, the US failed to demonstrate the "unforeseen developments" led to the increase in imports.
14. Article XIX:2 of the GATT 1994, since, *inter alia*, US failed to give notice in writing to WTO Members as far in advance as may be practical and to afford WTO Members having a substantial interest as exporters of the product concerned an opportunity to consult with it in respect of the proposed action.

China reserves its right to raise further-factual claims and legal issues during the course of consultations and in any future request for panel proceedings.

I look forward to receiving the reaction of your authorities to this request so that we can arrange a mutually convenient date and place to begin consultations.
