

Original: English

**UNITED STATES – ANTI-DUMPING MEASURES ON CERTAIN
HOT-ROLLED STEEL PRODUCTS FROM JAPAN**

Request for Consultations by Japan

The following communication, dated 18 November 1999, from the Permanent Mission of Japan to the Permanent Mission of United States and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

Upon instructions from my authorities, I hereby wish to convey the request of the Government of Japan for consultations with the Government of the United States of America 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 17.2 of the Agreement on Implementation of Article VI of GATT 1994 (the Anti-Dumping Agreement), regarding the preliminary and final determinations of the United States Department of Commerce (DOC) and the United States International Trade Commission (ITC) on the anti-dumping investigation of Certain Hot-Rolled Steel Products from Japan issued on 25 and 30 November 1998, 12 February, 28 April and 23 June 1999, respectively.

The Government of Japan considers that these determinations are erroneous and based on deficient procedures pertaining to the United States Tariff Act of 1930 (the Act). The relevant determinations, procedures and provisions of the Act and related regulations include, but are not limited to, the following:

- (1) the determination of injury made without objective examination of the facts;
- (2) the "captive production provision" (Section 771(7)(C)(iv) of the Act) and its applications;
- (3) the provisions pertaining to "transactions between affiliated parties" (Section 351.102 and 351.403 of the DOC regulations) used in calculating "normal value" and its application;
- (4) the determinations made without proper applications of the rules governing "facts available";
- (5) the provision for determining "estimated all-others rate of dumping margin" (Section 735(c)(5)(A) of the Act) and its application; and
- (6) the preliminary determination of "critical circumstances" without meeting the required conditions.

The Government of Japan is concerned that the above determinations, procedures and provisions of the Act and related regulations are inconsistent with the obligations of the United States under the WTO Agreement. The provisions of the Agreement with which these appear to be inconsistent include, but are not limited to, the following:

- (1) Articles VI and X of GATT 1994; and
- (2) Articles 2, 3, 6 (including Annex II), 9 and 10 of the Anti-Dumping Agreement.

The Government of Japan reserves its right to raise further factual claims and legal issues during the course of consultations.

We look forward to receiving your reply to this request and to fixing a mutually acceptable date for consultations.
