

Original: English

**UNITED STATES – SUNSET REVIEW OF ANTI-DUMPING DUTIES
ON CORROSION-RESISTANT CARBON STEEL FLAT PRODUCTS
FROM JAPAN**

Request for Consultations by Japan

The following communication, dated 30 January 2002, from the Permanent Mission of Japan 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.

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 final determination of both the United States Department of Commerce (DOC) and the United States International Trade Commission (ITC) on the full sunset review of Corrosion-Resistant Carbon Steel Flat Products from Japan issued on 2 August 2000 and 21 November 2000, respectively.

The Government of Japan considers that these determinations are erroneous and based on deficient rulings, procedures and provisions pertaining to the United States Tariff Act of 1930 (the Act) and related regulations. The matters which the Government of Japan would like to raise in the course of the consultations include, but are not limited to, the following:

- (1) the automatic initiation of a sunset review without sufficient evidence;
- (2) the likelihood standard used in determining whether to revoke or terminate an order, including the "good cause" provision determining whether the DOC may consider other relevant factors;
- (3) the use of the original dumping margins without careful examination on dumping and injury;
- (4) the determination of the likelihood of continued dumping on an order wide basis rather than a company specific basis;
- (5) the treatment of "zero" negative dumping margins in the average-to-average or transaction-to-transaction methodologies in calculating dumping margins in sunset reviews;
- (6) the treatment of a weighted-average dumping margin below 0.5 percent *ad valorem* as *de minimis*;

- (7) the cumulative assessment of the volume and the effect of subject imports "from all countries" where such imports are likely to have a discernible adverse impact on the domestic industry.

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;
- (2) Articles 2, 3, 5, 6 (including Annex II), 11, 12 and 18.4 of the Anti-Dumping Agreement; and
- (3) Article XVI:4 of the Agreement establishing the World Trade Organization.

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

In light of the DSU provisions governing this matter, including Article 4.3 thereof, as well as Article 17 of the Anti-Dumping Agreement, we look forward to receiving your reply to this request and to fixing a mutually acceptable date for consultations.
