

## **XI. CONCLUSIONS AND RECOMMENDATIONS ON THE CLAIMS BY THE EUROPEAN COMMUNITIES (WT/DS248)**

11.1 In light of the findings made in Section X above, the Panel concludes that the safeguard measures imposed by the United States on the imports of certain steel products as of 20 March 2002 are inconsistent with the Agreement on Safeguards and GATT 1994.

11.2 Specifically, the Panel upholds the following claims of the European Communities, that the application of a safeguard measure by the United States on imports of:

CCFRS<sup>5836</sup>:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports";
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Tin mill:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports", since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination of a "causal link" between any increased imports and serious injury since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;

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<sup>5836</sup> The USITC's determination on CCFRS served as a basis for safeguard measure(s) imposed on CCFRS including slabs. Therefore, our conclusions cover any safeguard measure imposed on CCFRS which includes the tariff quota on slabs.

- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Hot-rolled bar:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports";
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Cold-finished bar:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Rebar:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that unforeseen developments resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the

conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Welded pipe:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that unforeseen developments resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

FFTJ:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Stainless steel bar:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Stainless steel rod:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports";
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Stainless steel wire:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports", since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination of a "causal link" between any increased imports and serious injury since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

11.3 Under Article 3.8 of the DSU, in cases where there is infringement of the obligations assumed under a covered agreement, the action is considered *prima facie* to constitute a case of nullification or impairment of benefits under that agreement. Accordingly, the Panel concludes that to the extent that the United States has acted inconsistently with the provisions of the Agreement on Safeguards and GATT 1994, as described above, it has nullified or impaired the benefits accruing to the European Communities under the Agreement on Safeguards and GATT 1994.

11.4 The Panel therefore recommends that the Dispute Settlement Body request the United States to bring all the above safeguard measures into conformity with its obligations under the Agreement on Safeguards and GATT 1994.

## **XI. CONCLUSIONS AND RECOMMENDATIONS ON THE CLAIMS BY JAPAN (WT/DS249)**

11.1 In light of the findings made in Section X above, the Panel concludes that the safeguard measures imposed by the United States on the imports of certain steel products as of 20 March 2002 are inconsistent with the Agreement on Safeguards and GATT 1994.

11.2 Specifically, the Panel upholds the following claims of Japan, that the application of a safeguard measure by the United States on imports of:

CCFRS<sup>5837</sup>:

- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports";
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Tin mill:

- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports", since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination of a "causal link" between any increased imports and serious injury since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Hot-rolled bar:

- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports";

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<sup>5837</sup> The USITC's determination on CCFRS served as a basis for safeguard measure(s) imposed on CCFRS including slabs. Therefore, our conclusions cover any safeguard measure imposed on CCFRS which includes the tariff quota on slabs.

- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Cold-finished bar:

- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Rebar:

- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Welded pipe:

- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

FFTJ:

- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Stainless steel bar:

- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Stainless steel rod:

- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports";
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Stainless steel wire:

- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports", since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination of a "causal link" between any increased imports and serious injury since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

11.3 Under Article 3.8 of the DSU, in cases where there is infringement of the obligations assumed under a covered agreement, the action is considered prima facie to constitute a case of nullification or impairment of benefits under that agreement. Accordingly, the Panel concludes that to the extent that the United States has acted inconsistently with the provisions of the Agreement on Safeguards and GATT 1994, as described above, it has nullified or impaired the benefits accruing to Japan under the Agreement on Safeguards and GATT 1994.

11.4 The Panel therefore recommends that the Dispute Settlement Body request the United States to bring all the above safeguard measures into conformity with its obligations under the Agreement on Safeguards and GATT 1994.



**XI. CONCLUSIONS AND RECOMMENDATIONS ON THE CLAIMS BY KOREA<sup>5838</sup>  
(WT/DS251)**

11.1 In light of the findings made in Section X above, the Panel concludes that the safeguard measures imposed by the United States on the imports of certain steel products as of 20 March 2002 are inconsistent with the Agreement on Safeguards and GATT 1994.

11.2 Specifically, the Panel upholds the following claims of Korea, that the application of a safeguard measure by the United States on imports of:

CCFRS<sup>5839</sup>:

- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports";
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Tin mill:

- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports", since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination of a "causal link" between any increased imports and serious injury since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

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<sup>5838</sup> In its request for the establishment of a Panel, Korea did raise a claim for Unforeseen Developments. However, in its first and second written submissions, Korea did not develop this claim or request any findings on the issue.

<sup>5839</sup> The USITC's determination on CCFRS served as a basis for safeguard measure(s) imposed on CCFRS including slabs. Therefore, our conclusions cover any safeguard measure imposed on CCFRS which includes the tariff quota on slabs.

Hot-rolled bar:

- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports";
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Cold-finished bar:

- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Rebar:

- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Welded pipe:

- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

FFTJ:

- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;

- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Stainless steel bar:

- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Stainless steel rod:

- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports";
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Stainless steel wire:

- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports", since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination of a "causal link" between any increased imports and serious injury since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

11.3 Under Article 3.8 of the DSU, in cases where there is infringement of the obligations assumed under a covered agreement, the action is considered *prima facie* to constitute a case of nullification or impairment of benefits under that agreement. Accordingly, the Panel concludes that to the extent that the United States has acted inconsistently with the provisions of the Agreement on Safeguards and GATT 1994, as described above, it has nullified or impaired the benefits accruing to Korea under the Agreement on Safeguards and GATT 1994.

11.4 The Panel therefore recommend that the Dispute Settlement Body request the United States to bring all the above safeguard measures into conformity with its obligations under the Agreement on Safeguards and GATT 1994.

## **XI. CONCLUSIONS AND RECOMMENDATIONS ON THE CLAIMS BY CHINA (WT/DS252)**

11.1 In light of the findings made in Section X above, the Panel concludes that the safeguard measures imposed by the United States on the imports of certain steel products as of 20 March 2002 are inconsistent with the Agreement on Safeguards and GATT 1994.

11.2 Specifically, the Panel upholds the following claims of China, that the application of a safeguard measure by the United States on imports of:

CCFRS<sup>5840</sup>:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 31 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports";
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Tin mill:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports", since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination of a "causal link" between any increased imports and serious injury since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;

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<sup>5840</sup> The USITC's determination on CCFRS served as a basis for safeguard measure(s) imposed on CCFRS including slabs. Therefore, our conclusions cover any safeguard measure imposed on CCFRS which includes the tariff quota on slabs.

- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Hot-rolled bar:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports";
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Cold-finished bar:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Rebar:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the

conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Welded pipe:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

FFTJ:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Stainless steel bar:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Stainless steel rod:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports";
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Stainless steel wire:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports", since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination of a "causal link" between any increased imports and serious injury since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

11.3 Under Article 3.8 of the DSU, in cases where there is infringement of the obligations assumed under a covered agreement, the action is considered *prima facie* to constitute a case of nullification or impairment of benefits under that agreement. Accordingly, the Panel concludes that to the extent that the United States has acted inconsistently with the provisions of the Agreement on Safeguards and GATT 1994, as described above, it has nullified or impaired the benefits accruing to China under the Agreement on Safeguards and GATT 1994.

11.4 The Panel therefore recommends that the Dispute Settlement Body request the United States to bring all the above safeguard measures into conformity with its obligations under the Agreement on Safeguards and GATT 1994.

## **XI. CONCLUSIONS AND RECOMMENDATIONS ON THE CLAIMS BY SWITZERLAND (WT/DS253)**

11.1 In light of the findings made in Section X above, the Panel concludes that the safeguard measures imposed by the United States on the imports of certain steel products as of 20 March 2002 are inconsistent with the Agreement on Safeguards and GATT 1994.

11.2 Specifically, the Panel upholds the following claims of Switzerland, that the application of a safeguard measure by the United States on imports of:

CCFRS<sup>5841</sup>:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports";
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Tin mill:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports", since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination of a "causal link" between any increased imports and serious injury since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;

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<sup>5841</sup> The USITC's determination on CCFRS served as a basis for safeguard measure(s) imposed on CCFRS including slabs. Therefore, our conclusions cover any safeguard measure imposed on CCFRS which includes the tariff quota on slabs.

- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Hot-rolled bar:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports";
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Cold-finished bar:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Rebar:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that unforeseen developments resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the

conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Welded pipe:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

FFTJ:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Stainless steel bar:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that unforeseen developments resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Stainless steel rod:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports";
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Stainless steel wire:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports", since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination of a "causal link" between any increased imports and serious injury since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

11.3 Under Article 3.8 of the DSU, in cases where there is infringement of the obligations assumed under a covered agreement, the action is considered *prima facie* to constitute a case of nullification or impairment of benefits under that agreement. Accordingly, the Panel concludes that to the extent that the United States has acted inconsistently with the provisions of the Agreement on Safeguards and GATT 1994, as described above, it has nullified or impaired the benefits accruing to Switzerland under the Agreement on Safeguards and GATT 1994.

11.4 The Panel therefore recommends that the Dispute Settlement Body request the United States to bring all the above safeguard measures into conformity with its obligations under the Agreement on Safeguards and GATT 1994.

**XI. CONCLUSIONS AND RECOMMENDATIONS ON THE CLAIMS BY NORWAY (WT/DS254)**

11.1 In light of the findings made in Section X above, the Panel concludes that the safeguard measures imposed by the United States on the imports of certain steel products as of 20 March 2002 are inconsistent with the Agreement on Safeguards and GATT 1994.

11.2 Specifically, the Panel upholds the following claims of Norway, that the application of a safeguard measure by the United States on imports of:

CCFRS<sup>5842</sup>:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports";
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Tin mill:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports", since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination of a "causal link" between any increased imports and serious injury since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;

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<sup>5842</sup> The USITC's determination on CCFRS served as a basis for safeguard measure(s) imposed on CCFRS including slabs. Therefore, our conclusions cover any safeguard measure imposed on CCFRS which includes the tariff quota on slabs.

- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Hot-rolled bar:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports";
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Cold-finished bar:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Rebar:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the

conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Welded pipe:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

FFTJ:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Stainless steel bar:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Stainless steel rod:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports";
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Stainless steel wire:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports", since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination of a "causal link" between any increased imports and serious injury since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

11.3 Under Article 3.8 of the DSU, in cases where there is infringement of the obligations assumed under a covered agreement, the action is considered *prima facie* to constitute a case of nullification or impairment of benefits under that agreement. Accordingly, the Panel concludes that to the extent that the United States has acted inconsistently with the provisions of the Agreement on Safeguards and GATT 1994, as described above, it has nullified or impaired the benefits accruing to Norway under the Agreement on Safeguards and GATT 1994.

11.4 The Panel therefore recommends that the Dispute Settlement Body request the United States to bring all the above safeguard measures into conformity with its obligations under the Agreement on Safeguards and GATT 1994.

## **XI. CONCLUSIONS AND RECOMMENDATIONS ON THE CLAIMS BY NEW ZEALAND (WT/DS258)**

11.1 In light of the findings made in Section X above, the Panel concludes that the safeguard measures imposed by the United States on the imports of certain steel products as of 20 March 2002 are inconsistent with the Agreement on Safeguards and GATT 1994.

11.2 Specifically, the Panel upholds the following claims of New Zealand, that the application of a safeguard measure by the United States on imports of:

CCFRS<sup>5843</sup>:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports";
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Tin mill:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports", since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination of a "causal link" between any increased imports and serious injury since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;

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<sup>5843</sup> The USITC's determination on CCFRS served as a basis for safeguard measure(s) imposed on CCFRS including slabs. Therefore, our conclusions cover any safeguard measure imposed on CCFRS which includes the tariff quota on slabs.

- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Hot-rolled bar:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports";
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Cold-finished bar:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Rebar:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the

conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Welded pipe:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of parallelism between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

FFTJ:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Stainless steel bar:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Stainless steel rod:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports";
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Stainless steel wire:

- is inconsistent with Article XIX:1 of GATT 1994 and Article 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation demonstrating that "unforeseen developments" had resulted in increased imports causing serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports", since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination of a "causal link" between any increased imports and serious injury since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

11.3 Under Article 3.8 of the DSU, in cases where there is infringement of the obligations assumed under a covered agreement, the action is considered *prima facie* to constitute a case of nullification or impairment of benefits under that agreement. Accordingly, the Panel concludes that to the extent that the United States has acted inconsistently with the provisions of the Agreement on Safeguards and GATT 1994, as described above, it has nullified or impaired the benefits accruing to New Zealand under the Agreement on Safeguards and GATT 1994.

11.4 The Panel therefore recommends that the Dispute Settlement Body request the United States to bring all the above safeguard measures into conformity with its obligations under the Agreement on Safeguards and GATT 1994.

**XI. CONCLUSIONS AND RECOMMENDATIONS ON THE CLAIMS BY BRAZIL<sup>5844</sup>  
(WT/DS259)**

11.1 In light of the findings made in Section X above, the Panel concludes that the safeguard measures imposed by the United States on the imports of certain steel products as of 20 March 2002 are inconsistent with the Agreement on Safeguards and GATT 1994.

11.2 Specifically, the Panel upholds the following claims of Brazil, that the application of a safeguard measure by the United States on imports of:

CCFRS<sup>5845</sup>:

- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports";
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Tin mill:

- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports", since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination of a "causal link" between any increased imports and serious injury since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

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<sup>5844</sup> In its request for the establishment of a Panel, Brazil did raise a claim for unforeseen developments. However, in its first and second written submissions, Brazil did not develop this claim or request any findings on the issue.

<sup>5845</sup> The USITC's determination on CCFRS served as a basis for safeguard measure(s) imposed on CCFRS including slabs. Therefore, our conclusions cover any safeguard measure imposed on CCFRS which includes the tariff quota on slabs.

Hot-rolled bar:

- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports";
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Cold-finished bar:

- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Rebar:

- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Welded pipe:

- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

FFTJ:

- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;

- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Stainless steel bar:

- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation that a "causal link" existed between any increased imports and serious injury to the relevant domestic producers;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Stainless steel rod:

- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports";
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

Stainless steel wire:

- is inconsistent with Articles 2.1 and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination with respect to "increased imports", since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1, 4.2(b) and 3.1 of the Agreement on Safeguards, as the United States failed to provide a reasoned and adequate explanation of how the facts supported its determination of a "causal link" between any increased imports and serious injury since the explanation given consisted of alternative explanations partly departing from each other, which given the different product bases, cannot be reconciled as a matter of substance;
- is inconsistent with Articles 2.1 and 4.2 of the Agreement on Safeguards, as the United States failed to comply with the requirement of "parallelism" between the products for which the conditions for safeguard measures had been established, and the products which were subjected to the safeguard measure.

11.3 Under Article 3.8 of the DSU, in cases where there is infringement of the obligations assumed under a covered agreement, the action is considered *prima facie* to constitute a case of nullification or impairment of benefits under that agreement. Accordingly, the Panel concludes that to the extent that the United States has acted inconsistently with the provisions of the Agreement on Safeguards and GATT 1994, as described above, it has nullified or impaired the benefits accruing to Brazil under the Agreement on Safeguards and GATT 1994.

11.4 The Panel therefore recommends that the Dispute Settlement Body request the United States to bring all the above safeguard measures into conformity with its obligations under the Agreement on Safeguards and GATT 1994.

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