

and would not customarily be released to the public by the submitter.

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Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

(1) Must so designate the information or advice;

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(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; the U.S. submissions to the panel in the dispute, the summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file may be made by calling the USTR Reading Room at (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Daniel E. Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 02-26762 Filed 10-21-02; 8:45 am]

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS-260]

WTO Dispute Settlement Proceeding Regarding EC Provisional Safeguard Measures Against Imports of Certain Steel Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative ("USTR") is

providing notice that on September 16, 2002, pursuant to a request from the United States, a panel was established under the Marrakesh Agreement Establishing the World Trade Organization ("WTO") to examine the provisional safeguard measures imposed by the European Communities ("EC") against imports of certain steel products. These measures appear to be inconsistent with the EC's obligations under Article XIX of the GATT 1994 and Articles 2, 3, 4, 5, 6, and 12 of the Agreement on Safeguards. USTR invites written comment from the public concerning the issues raised in this dispute.

DATES: Although the USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before October 30, 2002, to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically, to FR0038@USTR.GOV, with "Dispute on EC Safeguard Measures on Steel" in the subject line, or (ii) by mail, to Sandy McKinzy, Monitoring and Enforcement Unit, Office of the General Counsel, Room 122, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, Attn: Dispute on EC Safeguard Measures on Steel, with a confirmation copy sent electronically or by fax to 202-395-3640.

FOR FURTHER INFORMATION CONTACT: L. Daniel Mullaney, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, (202) 395-3581.

SUPPLEMENTARY INFORMATION: Pursuant to Section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)), USTR is providing notice that on September 16, 2002, a WTO panel was established pursuant to a request by the United States. The panel, which will hold its meetings in Geneva, Switzerland, is expected to issue a report on its findings and recommendations within six to nine months after its establishment.

Major Issues Raised and Legal Basis of the Complaint

The United States considers that provisional safeguard measures taken by the European Communities ("EC") with regard to imports of certain steel products are inconsistent with the EC's commitments and obligations under the General Agreement on Tariffs and Trade 1994 ("GATT 1994") and the Agreement on Safeguards ("Safeguards Agreement"). The measures in question

(collectively, the "Safeguard Measures") include Commission Regulation (EC) No 560/2002 of 27 March 2002, as amended by Commission Regulation (EC) No 950/2002 of 3 June 2002, and Commission Regulation (EC) No 1287/2002 of 15 July 2002, as well as any other amendments thereto or extensions thereof, and any related measures. In particular, the Safeguard Measures appear to be inconsistent with:

(1) Article 2.1 of the Safeguards Agreement and Article XIX:1(a) of the GATT 1994, in that the EC applied the Safeguard Measures to certain steel products in the absence of a determination that such products are being imported in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products.

(2) Article 4.1(b) of the Safeguards Agreement, in that the EC did not make a determination of the existence of a threat of serious injury based on facts and not merely on allegation, conjecture or remote possibility.

(3) Article 4.2 (a) of the Safeguards Agreement, in that there was no investigation to determine, and no determination of, whether increased imports have caused or are threatening to cause serious injury, in which the EC evaluated all relevant factors of an objective and quantifiable nature having a bearing on the situation of the domestic industry, in particular, the rate and amount of the increase in imports of the product concerned in absolute and relative terms, the share of the domestic market taken by increased imports, changes in the level of sales, production, productivity, capacity utilization, profits and losses, and employment.

(4) Article 4.2 (b) of the Safeguards Agreement, in that there was no investigation demonstrating, and no determination of, the existence of a causal link between increased imports of the product concerned and serious injury or threat thereof on the basis of objective evidence. The EC also failed to ensure that injury caused at the same time by factors other than imports was not attributed to increased imports.

(5) Article 4.2(c) of the Safeguards Agreement, in that the EC failed to publish, in accordance with the provisions of Article 3, a detailed analysis of the case under investigation as well as a demonstration of the relevance of the factors examined.

(6) Article 6 of the Safeguards Agreement, in that the Safeguard Measures were not taken pursuant to a

preliminary determination that there is clear evidence that increased imports have caused or are threatening to cause serious injury to the domestic industry that produces like or directly competitive products.

(7) Article 6 of the Safeguards Agreement and Article XIX:2 of the GATT 1994 in that the EC took the Safeguard Measures in the absence of critical circumstances where delay would cause damage which it would be difficult to repair.

(8) Article 3 of the Safeguards Agreement, in that:

(a) The Safeguard Measures were not applied following an investigation by the competent authorities of the Member pursuant to procedures previously established and made public in consonance with Article X of the GATT 1994;

(b) The Safeguard Measures were not applied following an investigation which included reasonable public notice to all interested parties and public hearings or other appropriate means in which importers, exporters and other interested parties could present evidence and their views, including the opportunity to respond to the presentation of other parties and to submit their views, *inter alia*, as to whether or not the application of the Safeguard Measures would be in the public interest;

(c) The EC did not publish a report setting forth findings and reasoned conclusions reached on all pertinent issues of fact and law.

(9) Article 5.1 of the Safeguards Agreement, in that the Safeguard Measures were not applied by the EC only to the extent necessary to prevent or remedy serious injury and to facilitate adjustment.

(10) Article 12.1 of the Safeguards Agreement, in that the EC did not immediately notify the Committee on Safeguards upon:

(a) Initiating an investigation relating to serious injury or threat thereof and the reasons for it;

(b) Making a finding of serious injury or threat thereof caused by increased imports; and

(c) Taking a decision to apply or extend a safeguard measure.

(11) Article 12.4 of the Safeguards Agreement, in that the EC failed to make a notification to the Committee on Safeguards before taking the Safeguard Measures.

(12) Article 2.2 of the Safeguards Agreement and Article I of GATT 1994, in that the EC applied its Safeguard Measures to the goods of some WTO Members, while excluding the goods of other countries whose territories are not

part of a free trade area or a customs union and who are not developing country WTO Members.

(13) Articles 2.1, 4, 5.1 and 6 of the Safeguards Agreement and Article XIX of GATT 1994, in that there is a lack of parallelism between the products for which an increase in imports was claimed and the products on which the Safeguards Measures were imposed.

(14) Article XIX:1(a) of GATT 1994, in that there were no unforeseen developments, as a result of which a product is being imported in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of the like or directly competitive products.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Persons submitting comments may either send one copy by U.S. mail, first class, postage prepaid, to Sandy McKinzy at the address listed above or transmit a copy electronically to FR0038@ustr.gov, with "Dispute on EC Safeguard Measures on Steel" in the subject line. For documents sent by U.S. mail, USTR requests that the submitter provide a confirmation copy, either electronically or by fax to 202-395-3640. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page of each copy. Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

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Daniel E. Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Review Under 49 U.S.C. 41720 of Delta/Northwest/Continental Agreements

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Extension of waiting period.

SUMMARY: Delta Air Lines, Northwest Airlines, and Continental Airlines have submitted code-sharing and frequent-flyer program reciprocity agreements to the Department for review under 49 U.S.C. 41720. That statute requires such agreements between major U.S. passenger airlines to be submitted to the Department at least thirty days before the agreements' proposed effective date and authorizes the Department to extend the waiting period for these agreements at the end of the thirty-day period. The Department has determined to extend the waiting period for the Delta/Northwest/Continental