

US – LINE PIPE¹
(DS202)

| PARTIES | | AGREEMENT | TIMELINE OF THE DISPUTE | |
|-------------|---------------|---------------------------|-----------------------------|------------------|
| Complainant | Korea | SA Arts. 2, 3, 4, 5 and 9 | Establishment of Panel | 23 October 2000 |
| | | | Circulation of Panel Report | 29 October 2001 |
| Respondent | United States | | Circulation of AB Report | 15 February 2002 |
| | | | Adoption | 8 March 2002 |

1. MEASURE AND PRODUCT AT ISSUE

- Measure at issue: US safeguard measure.
- Products at issue: Circular-welded carbon quality line pipe imported from Korea.

2. SUMMARY OF KEY PANEL/AB FINDINGS²

- SA Arts. 3.1 and 4.2(c) (injury analysis): The Appellate Body reversed the Panel's finding that the United States violated Arts. 3.1 and 4.2(c) by failing to publish in its investigation report a *discrete* finding or reasoned conclusion that the increased imports caused either "serious injury" or "threat of serious injury", on the ground that the phrase "cause or threaten to cause" should be read to mean that an investigating authority has to conclude either one or both in combination as the US authority had done in the case at hand.
- SA Arts. 2 and 4 (parallelism): The Appellate Body reversed the Panel's finding that Korea did not make a prima facie case of violation of the "parallelism" requirement under Arts. 2 and 4, and concluded that the United States violated the Articles since it had excluded Canada and Mexico from the application of the measure without providing adequate reasoning, while including them in the investigation.
- SA Art. 4.2(b) (non-attribution): The Appellate Body upheld the Panel's finding that the US authority violated Art. 4.2(b) as it did not provide an adequate explanation in its report as to how it had ensured that injury caused to the domestic industry was due to increase in imports and not due to the effects of other factors.
- SA Art. 5.1 (measure): The Appellate Body reversed the Panel's finding that Korea had not made a prima facie case and found that, by establishing a violation under Art 4.2(b), Korea had made a prima facie case that the US measure was not limited to the extent permitted under Art. 5.1 (i.e. to the extent necessary to prevent or remedy serious injury attributed to increased imports and facilitate adjustment). The Appellate Body concluded that the United States violated Art. 5.1 as it had not rebutted Korea's prima facie case under Art. 5.1.
- SA Art. 9.1 (developing country exception): The Appellate Body upheld the Panel's finding that the United States was in violation of Art. 9.1 since the measure imposed duties on the product at issue imported from developing countries that represented only 2.7 per cent of total imports, which is below the 3 per cent *de minimis* level for developing countries set out in Art. 9.1.

¹ *United States – Definitive Safeguard Measures on Imports of Circular Welded Carbon Quality Line Pipe from Korea*

² Other issues addressed: General remarks on use of safeguard measures; SA Arts. 12.3 and 8.1, GATT Art. XXIV defence.