

**UNITED STATES – SAFEGUARD MEASURES ON IMPORTS OF FRESH, CHILLED
OR FROZEN LAMB MEAT FROM NEW ZEALAND AND AUSTRALIA**

Notification of an Appeal by the United States
under paragraph 4 of Article 16 of the Understanding on Rules
and Procedures Governing the Settlement of Disputes (DSU)

The following notification, dated 31 January 2001, sent by the Permanent Mission of the United States to the Dispute Settlement Body (DSB), is circulated to Members. This notification also constitutes the Notice of Appeal, filed on the same day with the Appellate Body, pursuant to the *Working Procedures for Appellate Review*.

Pursuant to Article 16 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU") and Rule 20 of the *Working Procedures for Appellate Review*, the United States hereby notifies its decision to appeal to the Appellate Body certain issues of law covered in the Panel Reports on *United States – Safeguard Measures on Imports of Fresh, Chilled or Frozen Lamb Meat from New Zealand and Australia* (WT/DS177/R, WT/DS178/R) and certain legal interpretations developed by the Panel.

1. The United States seeks review by the Appellate Body of the Panel's conclusion that the United States "has acted inconsistently with Article XIX:1(a) of GATT 1994 by failing to demonstrate as a matter of fact the existence of 'unforeseen developments'." This conclusion is in error, and is based upon erroneous findings on issues of law and on related legal interpretations.
2. The United States seeks review by the Appellate Body of the Panel's conclusion that the United States International Trade Commission ("USITC") has acted inconsistently with Article 4.1(c) of the *Agreement on Safeguards* ("SGA") by defining the domestic industry producing lamb meat to include growers and feeders as well as packers and breakers. This conclusion is in error, and is based upon erroneous findings on issues of law and on related legal interpretations.
3. The United States seeks review by the Appellate Body of the Panel's conclusion that the United States "has acted inconsistently with Article 4.1(c) of the Agreement on Safeguards because the USITC failed to obtain data in respect of producers representing a major proportion of the total domestic production by the domestic industry as defined in the investigation." This conclusion is in error, and is based upon erroneous findings on issues of law and on related legal interpretations.
4. The United States seeks review by the Appellate Body of the Panel's conclusion that the United States "has acted inconsistently with Article 4.2(b) of the Agreement on Safeguards because the USITC's determination in the lamb meat investigation in respect of causation did not demonstrate the required causal link between increased imports and threat of serious injury, in that the determination did not establish that increased imports were by themselves a necessary and sufficient cause of threat of serious injury, and in that the determination did not ensure that threat of serious injury caused by 'other factors' was not attributed to increased imports." These conclusions are in error, and are based upon erroneous findings on issues of law and on related legal interpretations.

5. The United States seeks review by the Appellate Body of the Panel's conclusion that, by virtue of the alleged violations of Article 4 of the SGA noted above, the United States also acted inconsistently with Article 2.1 of the SGA. This finding is in error, and is based upon erroneous findings on issues of law and on related legal interpretations.
