



30 January 2023

(23-0677)

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Original: English

UNITED STATES – CERTAIN MEASURES ON STEEL AND ALUMINIUM PRODUCTS

NOTIFICATION OF AN APPEAL BY THE UNITED STATES UNDER ARTICLE 16 OF THE UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES (DSU)

The following communication, dated 26 January 2023, addressed to the Chairperson of the Dispute Settlement Body is being circulated to Members at the request of the delegation of the United States.

Pursuant to Article 16 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (DSU), the United States hereby notifies the Dispute Settlement Body of its decision to appeal issues of law covered in the report of the Panel in *United States – Certain Measures on Steel and Aluminum Products from Switzerland* (WT/DS556/R, WT/DS556/R/Suppl.1, & WT/DS556/R/Add.1) and legal interpretations developed by the Panel.

Issues of national security are political matters not susceptible to review or capable of resolution by WTO dispute settlement. Every Member of the WTO retains the authority to determine for itself those measures that it considers necessary to the protection of its essential security interests, as is reflected in the text of Article XXI of the *General Agreement on Tariffs and Trade 1994*, Article XIV *bis* of the *General Agreement on Trade in Services*, and Article 73 of the *Agreement on Trade-Related Aspects of Intellectual Property Rights*. Bringing issues of national security into the WTO is not only incompatible with the purpose of the WTO, a trade organization, but will not advance WTO Members' shared interests in the WTO as a forum for discussion and negotiation.

The United States is willing to confer with Switzerland on the way forward in this dispute. The parties may consider engaging in good offices, conciliation, or mediation pursuant to DSU Article 5. Switzerland may also consider a non-violation complaint pursuant to Article XXIII:1(b) of the GATT 1994 as described in DSU Article 26.1.
