

MEXICO – DEFINITIVE ANTI-DUMPING MEASURES ON BEEF AND RICE

Complaint with Respect to Rice

Understanding between the United States and Mexico
Regarding Procedures under Articles 21 and 22 of the DSU

The following communication, dated 16 January 2007, from the delegation of the United States and the delegation of Mexico to the Chairman of the Dispute Settlement Body, is circulated at the request of these delegations.

The United States and Mexico would like to inform the Dispute Settlement Body of the attached "Agreement between the United States and Mexico Regarding Procedures under Articles 21 and 22 of the Dispute Settlement Understanding" with respect to the dispute *Mexico – Definitive Anti-Dumping Measures on Beef and Rice (Complaint with Respect to Rice)* (DS295).

We request that you please circulate the attached agreement to the Members of the Dispute Settlement Body.

**Agreement between the United States and Mexico Regarding Procedures
under Articles 21 and 22 of the Dispute Settlement Understanding**

On 20 December 2005, the Dispute Settlement Body (DSB) adopted its recommendations and rulings in the dispute *Mexico – Definitive Anti-Dumping Measures on Beef and Rice (Complaint with Respect to Rice)* (WT/DS295). On 18 May 2006, the United States and Mexico (collectively, the "Parties") informed the DSB that, pursuant to Article 21.3(b) of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), they had agreed that, with respect to the DSB's recommendations and rulings regarding paragraph 8.5 of the Panel Report (WT/DS295/R) and paragraph 350(d) of the Appellate Body Report (WT/DS295/AB/R), the reasonable period of time would be 12 months, expiring on 20 December 2006. This notification was circulated to WTO Members on 24 May 2006 (WT/DS295/12).

The reasonable period of time expired on 20 December 2006. Therefore, the Parties have agreed on the following procedures for purposes of this dispute:

1. If the United States deems it appropriate to invoke Article 21.5 of the DSU, the United States will request that Mexico enter into consultations with the United States. The Parties agree to hold such consultations within 15 days from the date of receipt of the request.
2. After the 15-day period referenced in paragraph 1 has elapsed, the United States may request the establishment of a panel pursuant to DSU Article 21.5 (the "compliance panel") at any time.
3. At the first DSB meeting at which the U.S. request for the establishment of a compliance panel appears as an item on the agenda, Mexico will accept the establishment of that panel.
4. The Parties will cooperate to enable the compliance panel to circulate its report within 90 days of the panel's composition, excluding such time as the panel's work may be suspended pursuant to Article 12.12 of the DSU.
5. In case of an appeal of the compliance panel report, the Parties will cooperate to enable the Appellate Body to circulate its report within 90 days from the date of notification of the appeal to the DSB.
6. The United States may request authorization to suspend concessions or other obligations pursuant to DSU Article 22.2 simultaneously with or at any time after a request for the establishment of the compliance panel pursuant to paragraph 2. Mexico will not assert that the United States is precluded from obtaining such DSB authorization because its request was made outside the time period specified in Article 22.6 of the DSU.
7. If the United States requests authorization to suspend concessions or other obligations pursuant to Article 22.2 of the DSU, in accordance with Article 22.6 of the DSU Mexico will object to the level of suspension of concessions or other obligations and/or claim that the principles and procedures set forth in DSU Article 22.3 have not been followed.
8. If the matter has been referred to Article 22.6 arbitration prior to adoption by the DSB of its recommendations and rulings in the Article 21.5 proceedings, the Parties will request that the Article 22.6 arbitrator suspend its work.

9. In the event that the DSB rules that a measure taken to comply does not exist or is inconsistent with a covered agreement, either party may request the Article 22.6 arbitrator to resume its work. The Parties will cooperate to enable the arbitrator to circulate its report within 60 days of the resumption of its work.
10. In the event that the DSB finds that Mexico has complied with the recommendations and rulings of the DSB, the United States will withdraw its request under Article 22.2 of the DSU, thereby terminating the arbitration procedure.
11. The Parties will cooperate to facilitate the participation of the original panelists in the compliance panel and the Article 22.6 arbitration.
12. If any of the original panelists is not available for either the Article 21.5 compliance panel or the Article 22.6 arbitration, or both, the Parties will promptly consult on a replacement panelist, and either Party may request the Director-General of the WTO to appoint, as soon as possible, a replacement for the proceeding or proceedings in which such a replacement is required. For any such request where an original panelist is unavailable to serve on the compliance panel and the Article 22.6 arbitration, the Parties will request that in selecting a panelist for the compliance panel, the Director-General seek a person who will also be available to act in the Article 22.6 arbitration.
13. The Parties agree to continue to cooperate in all matters related to these agreed procedures and not to raise any procedural objection to any of the steps set out herein. If, during the application of these procedures, the Parties consider that a procedural aspect has not been properly addressed, they will endeavour to find a solution within the shortest time possible that will not affect the other agreed procedures.
14. These agreed procedures in no way prejudice other rights of either party to take any action or procedural step to protect its rights and interests, including recourse to the DSU.

Agreed in Geneva on 16 January 2007.

For the United States

(signed)
David P. Shark
Chargé d'affaires

For Mexico

(signed)
Fernando de Mateo y Venturini
Ambassador
