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Spanish

**COLOMBIA – CUSTOMS MEASURES ON IMPORTATION
OF CERTAIN GOODS FROM PANAMA**

Request for Consultations by Panama

The following communication, dated 20 July 2006, from the delegation of Panama to the delegation of Colombia and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request consultations with Colombia, pursuant to Article 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU") and Article XXII:1 of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994") and Articles 19.1 and 19.2 of the *Agreement on Implementation of Article VII of the GATT 1994* ("Agreement on Customs Valuation") with respect to certain Colombian customs measures on the importation of certain goods from Panama. This request is being made after various efforts by Panama to discuss the matter with Colombia, in the hope of avoiding the initiation of a dispute. However, those efforts were to no avail.¹

First, Colombia has established and applies indicative unit prices or estimated prices for customs valuation purposes for certain goods that originate in and/or are imported from Panama and specified other countries or customs territories. The application of these indicative or estimated prices results in reference prices based on which importers of the affected goods must determine and pay customs duties and other duties or charges and taxes, and not based on the valuation methods set out in the Agreement on Customs Valuation. If the reference prices are not followed, then in practice the goods cannot be imported into Colombia. The mechanism based on indicative or estimated prices ("the indicative or estimated price mechanism") applies exclusively to certain goods (as described in the relevant legislative acts) originating in Panama and specified other countries or customs territories. Section A of the Annex contains a list of legislative acts that establish the indicative or estimated price mechanism.

The indicative or estimated price mechanism appears to be inconsistent with Colombia's obligations under Articles 1 to 7 and 13 of the Agreement on Customs Valuation and the General Notes in its Annex 1, as well as under Articles XI:1, XIII:1, II:1(a), II:1(b), X:1, X:3(a) and I:1 of the GATT 1994.

Second, Colombia has established a requirement that all goods falling under Chapters 50 to 64 of Colombia's Customs Tariff (textile and footwear products) that originate in and/or are imported from Panama or China must enter into Colombia only through specified ports of entry (the

¹ G/VAL/W/154, G/C/W/548, Meeting of the Council for Trade in Goods of 12 July 2006.

"restriction on the ports of entry"). Such goods must be imported exclusively through the two designated ports: the Special Administration for Customs Service at El Dorado Airport and the Special Customs Administration at Barranquilla. This restriction on the ports of entry applies only to such goods coming from Panama or China and not to goods coming directly from third countries or customs territories. The Resolutions establishing the restriction on the ports of entry for such goods are set out in Section B of the Annex.

The restriction on the ports of entry appears to be inconsistent with Colombia's obligations under Articles XI:1, XIII:1, V:6 and I:1 of the GATT 1994.

Third, Colombia has established a requirement that commercial invoices of goods coming from the Free Zone of Colon must include, in addition to the regular requirements, the name of the buyer in Colombia, its address and its Tax Identification Number ("NIT") (the "commercial invoices requirement"). This commercial invoices requirement applies only to goods coming from the Free Zone of Colon and not to goods originating in third countries or customs territories. The Resolution establishing the commercial invoices requirement is set out in Section C of the Annex.

The commercial invoices requirement appears to be inconsistent with Colombia's obligations under Articles XI:1, XIII:1, Article V:6 and Article I:1 of the GATT 1994.

For each of the measures at issue, this request also covers any related acts, amendments or extensions, as well as any related practices not listed in the Annex.

The measures at issue appear to nullify or impair the benefits accruing to Panama under the cited agreements.

Panama reserves the right to raise additional claims and legal issues regarding the above-mentioned measures during the consultations.

My authorities look forward to receiving your reply to this request. I propose that the date and venue of the consultations be agreed between our missions.

ANNEX

A. The indicative or estimated price mechanism

The indicative or estimated price mechanism as established by the following legislative acts, including any related instruments and amendments thereto and related practices:

- *Resolución No. 05474 de la Dirección de Impuestos y Aduanas Nacionales de 29 de junio de 2005 "[p]or la cual se establecen Precios Indicativos".*
- *Resolución No. 07908 de la Dirección de Impuestos y Aduanas Nacionales de 1 de septiembre de 2005 "[p]or la cual se establecen Precios Indicativos".*
- *Resolución No. 08628 de la Dirección de Impuestos y Aduanas Nacionales de 20 de septiembre de 2005 "[p]or la cual se establecen Precios Indicativos".*
- *Resolución No. 08743 de la Dirección de Impuestos y Aduanas Nacionales de 22 de septiembre de 2005 "[p]or la cual se establecen precios indicativos de textiles".*
- *Resolución No. 09477 de la Dirección de Impuestos y Aduanas Nacionales de 12 de octubre de 2005 "[p]or la cual se establecen Precios Indicativo".*
- *Resolución No. 09478 de la Dirección de Impuestos y Aduanas Nacionales de 12 de octubre de 2005 "[p]or la cual se establecen Precios Estimados".*
- *Resolución No. 10760 de la Dirección de Impuestos y Aduanas Nacionales de 15 de noviembre de 2005 "[p]or la cual se establecen precios indicativos".*
- *Resolución No. 10953 de la Dirección de Impuestos y Aduanas Nacionales de 18 de noviembre de 2005 "[p]or la cual se establecen precios indicativos".*
- *Resolución No. 11285 de la Dirección de Impuestos y Aduanas Nacionales de 25 de noviembre de 2005 "[p]or la cual se establecen Precios Indicativos".*
- *Resolución No. 11439 de la Dirección de Impuestos y Aduanas Nacionales de 29 de noviembre de 2005 "[p]or la cual se establecen Precios Indicativos".*
- *Resolución No. 4953 de la Dirección de Impuestos y Aduanas Nacionales de 18 de mayo de 2006 "[p]or la cual se establecen precios indicativos para juguetes rellenos y no rellenos".*
- Colombia's Custom Code (Decree No. 2685 of 1999) in particular Titles V and VI, its Regulations (Resolution No. 4240 of 2000) and the application thereof.

B. The restriction on the ports of entry into Colombia

The restriction on the ports of entry as established in the following resolutions, including any related instruments and amendments thereto:

- *Resolución No. 05796 de la Dirección de Impuestos y Aduanas Nacionales de 7 de julio de 2005 "[p]or la cual se señalan los lugares habilitados para el ingreso e importación de mercancías originarias y/o provenientes de la República de Panamá y de la República Popular China".*
- *Resolución No. 12465 de la Dirección de Impuestos y Aduanas Nacionales de 21 de diciembre de 2005 "[p]or la cual se amplía la vigencia de la Resolución 05796 de 2005, que señala los lugares habilitados para el ingreso e importación de mercancías originarias y/o provenientes de la República de Panamá y de la República Popular China".*
- *Resolución No. 06691 de la Dirección de Impuestos y Aduanas Nacionales de 22 de junio de 2006 "[p]or la cual se amplía la vigencia de la Resolución 05796 de 2005, que señala los lugares habilitados para el ingreso e importación de mercancías originarias y/o provenientes de la República de Panamá y de la República Popular China".*

C. The commercial invoices requirement

The commercial invoices requirement as established in the following resolution, including any related instruments and amendments thereto:

- *Resolución No. 10118 de la Dirección General de Impuestos y Aduanas Nacionales de 27 de octubre de 2005, "[p]or la cual se modifica parcialmente la Resolución 4240 de 2000".*
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