

**EUROPEAN COMMUNITIES - REGIME FOR THE IMPORTATION,
SALE AND DISTRIBUTION OF BANANAS**

SECOND RECOURSE TO ARTICLE 21.5 OF THE DSU BY ECUADOR

Communication from Ecuador and the European Union¹

The following communication, dated 7 January 2010, from the delegation of the European Union and the delegation of Ecuador to the Chairman of the Dispute Settlement Body, is circulated at the request of these delegations.

As reported at the last DSB meeting of 21 December 2009, Ecuador, the European Union and a number of other Members have initialled the so called Geneva Agreement on Trade in Bananas ("hereinafter "the Agreement"). The Agreement has been notified to the General Council on 15 December 2009 in Document WT/L/784.

The Agreement provides, *inter alia*, that the dispute *DS27 European Communities – Regime for the Importation, Sale and Distribution of Bananas: Second Recourse to Article 21.5 by Ecuador* (hereinafter "the dispute") shall be settled upon certification of the EU's new banana tariff schedule (paragraph 5 of the Agreement). The European Union will file its new banana tariff schedule for certification as soon as the Agreement has entered into force (paragraph 4(b) of the Agreement). Currently, all necessary steps are being taken to prepare for signature and ratification of the Agreement.

Paragraph 5 of the Agreement further provides that within two weeks after certification, Ecuador and the European Union shall jointly notify the DSB, pursuant to Article 3.6 of the DSU, that they have reached a mutually agreed solution through which they have agreed to end this dispute.

Pending the settlement of the dispute in accordance with paragraph 5 of the Agreement, and without prejudice to the commitment undertaken under paragraph 6 of the Agreement, Ecuador reserves all of its rights under this dispute and those relating to the surveillance of the implementation of the adopted recommendations and rulings of the DSB, as provided for under Article 21.6 of the DSU.

¹ On 1 December 2009, the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community (done at Lisbon, 13 December 2007) entered into force. On 29 November 2009, the WTO received a Verbal Note (WT/L/779) from the Council of the European Union and the Commission of the European Communities stating that, by virtue of the Treaty of Lisbon, as of 1 December 2009, the European Union replaces and succeeds the European Community.

In light of these circumstances, Ecuador and the European Union agree that it is not necessary for the European Union to continue to provide status reports in this dispute while the European Union is taking the necessary steps to implement the terms of the Agreement. Instead, the European Union shall keep Ecuador and other interested Members periodically informed of its internal processes to implement the terms of the Agreement. Ecuador and the European Union also agree that under the current circumstances neither will put the implementation of the rulings and recommendations in this dispute on the agenda of the DSB. However, Ecuador reserves its right to do so should it deem it necessary or appropriate.
