

**UNITED STATES - IMPORT PROHIBITION OF
CERTAIN SHRIMP AND SHRIMP PRODUCTS**

Understanding between Malaysia and the United States
Regarding Possible Proceedings under Articles 21 and 22 of the DSU

The following communications, dated 22 December 1999, from the Permanent Missions of Malaysia and the United States to the Chairman of the Dispute Settlement Body, are circulated at the request of these delegations.

1. Letter from H.E. Mr. Hamidon Ali, Ambassador, Permanent Mission of Malaysia to H.E. Ms Rita Hayes, Ambassador, Permanent Mission of the United States, dated 22 December 1999

Dear Ms. Ambassador,

Our two Governments have been consulting in good faith on the implementation of the Dispute Settlement Body (DSB) recommendations and rulings in *United States - Import Prohibition of Certain Shrimp and Shrimp Products* (WT/DS58); and are determined to continue such consultations. This letter is to confirm the understanding reached between the Governments of Malaysia and the United States regarding possible proceedings pursuant to Articles 21 and 22 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) concerning that implementation.

Our two Governments have agreed as follows:

1. Malaysia will not at this stage initiate proceedings under Article 21.5 or Article 22 of the DSU.
2. If Malaysia at some future date decides that it may wish to initiate proceedings under Articles 21.5 and Article 22 of the DSU, Malaysia will initiate proceedings under Article 21.5 prior to any proceedings under Article 22. Malaysia will provide the United States advance notice of any proposal to initiate proceedings under Article 21.5 and will consult with the United States before requesting the establishment of a panel under Article 21.5. Malaysia will not request authorization to suspend concessions or other obligations under Article 22 until the adoption of the Article 21.5 panel report. If on the basis of the proceedings under Article 21.5 Malaysia decides to initiate proceedings under Article 22, the United States will not assert that Malaysia is precluded from obtaining DSB authorization because Malaysia's request was made outside the 30-day time period specified in the first sentence of Article 22.6. This is without prejudice to the rights of the United States to have the matter referred to arbitration in accordance with Article 22.6.

3. In light of the fact that the DSB recommendations and rulings in this dispute were based on a report of the Appellate Body, if Malaysia at some future date initiates proceedings under Article 21.5 of the DSU, either Malaysia or the United States may appeal the report of the panel established under Article 21.5; and Article 16.4 of the DSU, which provides in part that the DSB shall not consider the report of that panel for adoption until after the completion of the appeal, shall apply.

This letter and your letter of confirmation in reply shall constitute an understanding between our two Governments.

Yours sincerely,

Hamidon Ali

2. Letter from H.E. Ms Rita D. Hayes, Ambassador, Permanent Mission of the United States to H.E. Mr. Hamidon Ali, Ambassador, Permanent Mission of Malaysia , dated 22 December 1999

Dear Mr. Ambassador,

Thank you for your letter of today's date which reads:

"Our two Governments have been consulting in good faith on the implementation of the Dispute Settlement Body (DSB) recommendations and rulings in *United States - Import Prohibition of Certain Shrimp and Shrimp Products* (WT/DS58); and are determined to continue such consultations. This letter is to confirm the understanding reached between the Governments of Malaysia and the United States regarding possible proceedings pursuant to Articles 21 and 22 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) concerning that implementation.

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1. Malaysia will not at this stage initiate proceedings under Article 21.5 or Article 22 of the DSU.

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3. In light of the fact that the DSB recommendations and rulings in this dispute were based on a report of the Appellate Body, if Malaysia at some future date initiates proceedings under Article 21.5 of the DSU, either Malaysia or the United States may appeal the report of the panel established under Article 21.5; and Article 16.4 of the DSU, which provides in part that the DSB shall not consider the report of that panel for adoption until after the completion of the appeal, shall apply.

This letter and your letter of confirmation in reply shall constitute an understanding between our two Governments."

I have the honor to confirm this understanding between our two Governments.

Sincerely,

Rita D. Hayes.
