

**KOREA – ANTI-DUMPING DUTIES ON IMPORTS
OF CERTAIN PAPER FROM INDONESIA**

Understanding between Korea and Indonesia
Regarding Procedures under Articles 21 and 22 of the DSU

The following communication, dated 17 August 2006, from the delegation of Korea and the delegation of Indonesia to the Chairman of the Dispute Settlement Body, is circulated at the request of these delegations.

The Republic of Korea and the Republic of Indonesia would like to notify Dispute Settlement Body of the attached "Understanding between the Republic of Korea and the Republic of Indonesia" with regard to the dispute *Korea – Anti-Dumping Duties on Imports of Certain Paper from Indonesia* (WT/DS312).

Understanding between the Republic of Korea and the Republic of Indonesia

On 28 November 2005, the Dispute Settlement Body ("DSB") adopted its recommendations and rulings in the dispute *Korea – Anti-Dumping Duties on Imports of Certain Paper from Indonesia* (WT/DS312). Korea and Indonesia informed the DSB on 10 February 2006 that, pursuant to Article 21.3(b) of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), they had agreed that the reasonable period of time for Korea to implement the recommendations and rulings of the DSB in this dispute would be eight months, expiring on 28 July 2006. This notification was circulated to WTO Members on 14 February 2006 (WT/DS312/6).

On 27 July 2006, the Korean Trade Commission published its Implementation Report (Public Notice No. 2006-105 of the Korean Ministry of Finance and Economy) in the Korean Gazette.

Korea considers that it has fully complied with the recommendations and rulings of the DSB within the reasonable period of time. Indonesia is not satisfied that Korea has fully complied and wishes to reserve its rights under Articles 21 and 22 of the DSU.

Therefore, Indonesia and Korea ("the parties to the dispute") have agreed on the following procedures for the exclusive purposes of this dispute:

1. Should Indonesia decide to invoke Article 21.5 of the DSU, Indonesia will request consultations, which the parties will hold within 15 days from the date of circulation of Indonesia's request. After the 15 day consultation period has lapsed and the parties to the dispute have failed to reach a mutually agreeable solution, Indonesia may request the establishment of a panel pursuant to Article 21.5 of the DSU.
2. At the first DSB meeting at which Indonesia's request for the establishment of an Article 21.5 panel appears on the agenda, Korea shall accept the establishment of that panel.
3. The parties to the dispute will cooperate to enable the Article 21.5 panel to circulate its report within 90 days of the panel's composition, excluding such time during which the panel's work may be suspended pursuant to Article 12.12 of the DSU.
4. Either party to the dispute may request the DSB to adopt the report of the Article 21.5 panel at a DSB meeting held at least 20 days after the circulation of the report to the Members unless either party appeals the report. If a party to the dispute has notified its decision to appeal, the report by the Article 21.5 panel shall not be considered for adoption by the DSB until after completion of the appeal.
5. In the event of an appeal against the Article 21.5 panel report, the parties to the dispute will cooperate to enable the Appellate Body to circulate its report to the Members within no more than 60 days from the date of notification of the appeal to the DSB.
6. In the event of an appeal, either party to the dispute may request the DSB to adopt the reports of the Appellate Body and the Article 21.5 panel (as modified by the Appellate Body report) at a DSB meeting held within 30 days of the circulation of the Appellate Body report to the Members.
7. Indonesia shall not request authorization to suspend concessions or other obligations under Article 22 of the DSU until the adoption by the DSB of the Article 21.5 panel report and, where relevant, the Appellate Body report.

8. If the DSB adopts recommendations and rulings that measures taken by Korea to comply with the prior recommendations and rulings of the DSB do not exist or are inconsistent with a covered agreement, Indonesia has the right under Article 22.2 of the DSU to request negotiations with Korea with a view to developing mutually acceptable compensation, and to request authorization from the DSB to suspend concessions or other obligations pursuant to Articles 22.2 and 22.6 of the DSU.
9. Subject to paragraphs 7 and 8, Indonesia has the right to request the DSB authorization referred to therein at any future date. Korea shall not assert that Indonesia is precluded from obtaining the DSB authorization because the request was made outside the 30-day time-period specified in Article 22.6 of the DSU.
10. Korea retains the right to object to the level of suspension proposed, or to claim that the principles and procedures set forth in Article 22.3 of the DSU have not been followed, and to have the matter referred to arbitration under Article 22.6 of the DSU.
11. The parties to the dispute will cooperate to enable the arbitrator under Article 22.6 of the DSU to circulate its decision within 60 days of the referral to arbitration.
12. The parties to the dispute will cooperate to facilitate the participation of the original panelists in the Article 21.5 compliance panel and the Article 22.6 arbitration.
13. 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 to the dispute 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 a replacement is required. If an original panelist is unavailable to serve in either of the proceedings, the parties to the dispute will further request that, in making this appointment, the Director-General seek a person who will be available to act in both proceedings.
14. The parties to the dispute will continue to cooperate in all matters related to this Understanding and not to raise any procedural objection to any of the steps set out herein. If, during the application of these procedures, the parties to the dispute consider that a procedural aspect has not been properly addressed in this Understanding, they will endeavor to find a solution within the shortest time possible that will not affect the other aspects and steps agreed herein.
15. In order to fully safeguard their respective rights under the DSU, the parties to the dispute agree to immediately notify this agreement to the DSB.

Signed in Geneva, 17 August 2006:

(signed)
H.E. Mr. CHOI Hyuck
Ambassador
Permanent Representative of Korea

(signed)
H.E. Mr. Gusmardi BUSTAMI
Ambassador
Permanent Representative of Indonesia
to the WTO