

UNITED STATES – SUBSIDIES ON UPLAND COTTON

Communication from Brazil

The following communication, dated 8 March 2010, from the delegation of Brazil to the Chairman of the Dispute Settlement Body, is circulated at the request of that delegation.

On 19 November 2009, the Dispute Settlement Body ("DSB") authorized Brazil to suspend the application to the United States of concessions or other obligations consistent with the Arbitrator's Decision contained in document WT/DS267/ARB/1. On the same date, the DSB also authorized Brazil to suspend the application to the United States of concessions or other obligations consistent with the Arbitrator's Decision contained in document WT/DS267/ARB/2 and Corr.1.

The authorizations were granted pursuant to Brazil's requests contained in documents WT/DS267/41 and WT/DS267/42. In both requests, Brazil undertook to notify the DSB of the countermeasures it intended to adopt prior to bringing them into force.

Application of the methodology established by the Arbitrator in paragraph 6.5(a) of the Decision contained in document WT/DS267/ARB/1, using data from the most recent period for which complete data are available (fiscal year 2008 and calendar year 2008), yields an annual level of countermeasures of US\$ 682 million. Adding this value to the annual fixed level of countermeasures of US\$ 147.3 million that arises from the Decision contained in document WT/DS267/ARB/2 and Corr.1, results in a total annual level of countermeasures of US\$ 829.3 million.

On the basis of the same period, the threshold described in paragraph 5.201 of the Decision contained in document WT/DS267/ARB/1, as well as in paragraph 5.201 of the Decision contained in document WT/DS267/ARB/2 and Corr.1, updated to account for the change in Brazil's total imports from the United States, is US\$ 561 million.

Paragraph 6.5(b) of the Decision contained in document WT/DS267/ARB/1 reads as follows:

"In the event that the total level of countermeasures that Brazil would be entitled to in a given year [footnote] should increase to a level that would exceed the threshold described in paragraph 5.201, updated to account for the change in Brazil's total imports from the United States, then, Brazil would also be entitled to seek to suspend certain obligations under the TRIPS Agreement and/or the GATS, as identified in footnote 468, with respect to any amount of permissible countermeasures applied in excess of that figure." [Text of footnote]: "It is understood that this amount is to be calculated taking into account the entirety of the level of countermeasures that Brazil is entitled to at that point in time, arising both from the application of the formula identified in paragraph 6.5(a) and from the Decision by the Arbitrator contained in WT/DS267/ARB/2."

But for the cross-references, the text of paragraph 6.5(b) of the Decision contained in document WT/DS267/ARB/2 and Corr.1 is identical.

In light of the above, starting from 7 April 2010, Brazil will suspend the application to the United States of concessions or other obligations under the *General Agreement on Tariffs and Trade 1994* (GATT 1994) in the form of increased import duties on certain products when they are imported from the United States. The products that will be subject to the increased duties, together with the total rate of *ad valorem* duty that will be applied as a result of the increase, are listed in the Annex. This suspension corresponds, over one year, to a total value of approximately US\$ 591 million. Should there be any changes to the above-mentioned countermeasures during the period of their application, Brazil will notify the DSB before the changes come into effect.

Since the total annual level of countermeasures to which Brazil is currently entitled exceeds the threshold identified above, Brazil will also suspend the application to the United States of certain concessions or obligations under the *Agreement on Trade-Related Aspects of Intellectual Property Rights* ("TRIPS Agreement") and/or the *General Agreement on Trade in Services* (GATS), up to an annual amount of approximately US\$ 238 million. Brazil will notify to the DSB the specific concessions or obligations under TRIPS and/or GATS whose application to the United States will be suspended before such suspension comes into force.

ANNEX

Code	Description of Goods*	Increased Tariff (applied to US goods only)
0303.51.00	--Herrings (<i>Clupea harengus</i> , <i>Clupea pallasii</i>)	30%
0402.10.10	Of an arsenic, lead or copper content, taken separately, of less than 5 ppm	48%
0404.10.00	-Whey and modified whey, whether or not concentrated or containing added sugar or other sweetening matter	48%
0504.00.13	Of swine	28%
0802.21.00	--In shell	26%
0802.31.00	--In shell	30%
0802.32.00	--Shelled	30%
0806.20.00	-Dried	30%
0808.20.10	Pears	30%
0809.20.00	-Cherries	30%
0809.40.00	-Plums and sloes	30%
1001.90.90	Others	30%
1502.00.11	Raw	26%
1507.90.90	Others	30%
1514.11.00	--Crude oil	30%
1514.19.10	Refined	30%
2005.20.00	-Potatoes	34%
2009.90.00	-Mixtures of juices	34%
2103.20.10	In immediate containers holding not more than 1 kg	38%
2103.90.91	In immediate containers holding not more than 1 kg	38%
2106.10.00	-Protein concentrates and textured protein substances	34%
2106.90.30	Preparations often referred to as food supplements	36%
2106.90.50	Sugar-free chewing gum	36%
2106.90.90	Others	36%
2202.90.00	-Others	40%
2303.20.00	-Beet-pulp, bagasse and other waste of sugar manufacture	26%
2905.11.00	--Methanol (methyl alcohol)	22%
2929.10.21	Isomer mixture	28%
3003.90.55	Paracetamol; bromopride	28%
3004.20.19	Other	14%
3004.20.79	Other	14%
3004.39.39	Other	14%
3004.40.90	Other	14%
3004.90.49	Other	14%
3005.10.90	Other	12%
3006.10.90	Other	22%
3303.00.20	Toilet waters	36%

Code	Description of Goods*	Increased Tariff (applied to US goods only)
3304.10.00	-Lip make-up preparations	36%
3304.99.10	Beauty creams; tonic lotions	36%
3304.99.90	Other	36%
3305.10.00	-Shampoos	36%
3305.90.00	-Other	36%
3306.10.00	-Dentifrices	36%
3306.90.00	-Other	36%
3307.10.00	-Pre-shave, shaving or after-shave preparations	36%
3307.20.90	Other	36%
3307.90.00	-Other	36%
3401.19.00	--Other	36%
3402.90.39	Other	36%
3923.30.00	-Carboys, bottles, flasks and similar articles	36%
4011.10.00	-Of a kind used on motor cars (including station wagons and racing cars)	32%
4011.20.90	Other	32%
4908.90.00	-Other	32%
5201.00.20	Not further prepared than ginned	100%
5201.00.90	Other	100%
5203.00.00	Cotton, carded or combed	100%
5208.21.00	--Plaine weave, weighing not more than 100 g/m ²	100%
5209.32.00	--3-thread or 4-thread twill, including cross-twill	100%
5703.20.00	-Of nylon or others polyamides	60%
5903.90.00	Other	48%
6116.10.00	-Gloves impregnated, coated or covered with plastics or rubber	60%
6203.42.00	--Of cotton	100%
6204.62.00	--Of cotton	100%
6303.92.00	--Of synthetic fibres	60%
6307.90.10	Of synthetic fibres	60%
6307.90.90	Other	60%
7113.19.00	--Of other precious metal other or not plated or clad with precious metal	36%
8212.10.20	Razors	36%
8212.20.10	Blades	36%
8418.40.00	-Freezers, upright, not exceeding 900 litres capacity	40%
8433.11.00	--Powered, with the cutting device rotating in a horizontal plane	36%
8471.90.12	Bar-code readers	22%
8506.80.90	Other	32%
8516.60.00	-Other ovens; cookers, cooking plates, boiling rings, grillers and roasters	40%
8517.12.31	Portable	32%
8518.10.90	Other	40%

Code	Description of Goods*	Increased Tariff (applied to US goods only)
8518.21.00	--Single loudspeakers, mounted in their enclosures	40%
8518.22.00	--Multiple loudspeakers, mounted in the same enclosure	40%
8518.30.00	-Headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers	40%
8518.50.00	-Electric sound amplifier sets	40%
8521.90.90	Other	40%
8525.80.19	Other	40%
8525.80.29	Other	40%
8527.21.90	Other	40%
8528.49.29	Other	40%
8703.21.00	--Of a cylinder capacity not exceeding 1 000 cc	50%
8703.23.10	With a seating capacity of not more than 6, including the driver	50%
8703.24.10	With a seating capacity of not more than 6, including the driver	50%
8703.24.90	Other	50%
8703.33.10	With a seating capacity of not more than 6, including the driver	50%
8711.50.00	-With reciprocating internal combustion piston engine of a cylinder capacity exceeding 800 cc	40%
8903.92.00	--Motorboats, other than outboard motorboats	40%
8903.99.00	--Other	40%
9004.10.00	-Sunglasses	40%
9008.30.00	-Other image projectors	36%
9018.32.19	Other	32%
9018.39.10	Needles	32%
9021.10.20	Splints and other fracture appliances	14%
9021.39.80	Other	28%
9102.11.10	With case of base metal	40%
9403.70.00	-Furniture of plastics	36%
9603.21.00	--Tooth brushes, including dental-plate brushes	36%

* Brazil adopts the description contained in Mercosur Common Nomenclature, which is based on the Harmonized Commodity Description and Coding System (HS). The Mercosur Common Nomenclature has authentic versions in Portuguese and Spanish. The translation above is made for reference purposes only. No right or privilege is waived or lost by any error in the translation of the official descriptions.