

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

Second Recourse to Article 21.5 of the DSU by Ecuador

Notification of an Other Appeal by Ecuador  
under Article 16.4 and Article 17 of the Understanding on Rules  
and Procedures Governing the Settlement of Disputes (DSU),  
and under Rule 23(1) of the Working Procedures for Appellate Review

The following notification, dated 9 September 2008, from the Delegation of Ecuador, is being circulated to Members.

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Pursuant to Articles 16.4 and 17 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU") and Rule 23(1) of the *Working Procedures for Appellate Review*, Ecuador submits this Notice of Other Appeal on certain issues of law covered and certain legal interpretations developed by the Panel in the Report on: *European Communities – Regime for the Importation, Sale and Distribution of Bananas – Second Recourse to Article 21.5 of the DSU by Ecuador*.<sup>1</sup>

On 28 August 2008, the European Communities (EC) filed its Notice of Appeal pursuant to Rule 20(1) of the *Working Procedures for Appellate Review*. The EC requested that the Appellate Body review certain findings and conclusions of the Panel.

If, as a result of its review of any of the matters appealed by the EC, the Appellate Body considers that the Panel's conclusion that the EC's applied duty on bananas is inconsistent with the first sentence of Article II:1(b) of the GATT 1994 is not justified on the bases found by the Panel, Ecuador appeals the following issues of law and legal interpretation in the Report of the Panel:

The Panel's erroneous findings (e.g. in paragraphs 7.427, 7.436, 7.482, 7.492) concerning the effect of the expiration clause (paragraph 9) of the Banana Framework Agreement on the continued binding effect under Article II of the GATT 1994 of the EC's tariff quota at 75 euro/mt.

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<sup>1</sup>Panel Report, *European Communities – Regime for the Importation, Sale and Distribution of Bananas – Second Recourse to Article 21.5 of the DSU by Ecuador*, WT/DS27/RW2/ECU, circulated on 7 April 2008 (the "Panel Report").