

**UNITED STATES – SUNSET REVIEWS OF ANTI-DUMPING MEASURES
ON OIL COUNTRY TUBULAR GOODS FROM ARGENTINA**

Understanding between Argentina and the United States
Regarding Procedures under Articles 21 and 22 of the DSU

The following communication, dated 5 January 2006, from the delegation of Argentina and the delegation of the United States to the Chairman of the Dispute Settlement Body is circulated at the request of these delegations.

Argentina and the United States would like to inform the Dispute Settlement Body that they have concluded the attached "Agreed Procedures under Articles 21 and 22 of the Dispute Settlement Understanding Applicable to the WTO Dispute *United States – Sunset Reviews of Anti-Dumping Measures on Oil Country Tubular Goods from Argentina* (WT/DS268)". We request that you please circulate these agreed procedures to the Members of the DSB.

**Agreed Procedures under Articles 21 and 22 of the Dispute Settlement Understanding
Applicable to the WTO Dispute *United States – Sunset Reviews of Anti-Dumping Measures
on Oil Country Tubular Goods from Argentina* (WT/DS268)**

The Dispute Settlement Body (DSB) adopted the Panel and Appellate Body Reports in this dispute on 17 December 2004.

On 7 June 2005 the Arbitrator appointed pursuant to Article 21.3(c) of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (DSU) issued its award, granting the United States a reasonable period of time of 12 months to implement the recommendations and rulings adopted by the DSB (WT/DS268/12). The reasonable period of time for implementation elapsed on 17 December 2005. On 20 December 2005, the United States informed the DSB that it had implemented the DSB's recommendations and rulings. Argentina then informed the DSB that, in its view, the United States had not implemented the recommendations and rulings of the DSB in a manner consistent with US WTO obligations.

Given the disagreement between Argentina and the United States (the "Parties") within the meaning of Article 21.5 of the DSU, as to the existence or consistency of measures taken by the United States to comply with the recommendations and rulings of the DSB, the Parties have agreed on the following procedures for purposes of this dispute:

1. If Argentina deems it appropriate to invoke Article 21.5 of the DSU, Argentina will request consultations, which the Parties agree to hold within 15 days from the date of circulation of the request.
2. After the 15-day period referenced in paragraph 1 has elapsed, Argentina may request the establishment of a panel pursuant to Article 21.5 of the DSU (the "compliance panel").
3. At the first DSB meeting for which Argentina's request for the establishment of a compliance panel appears on the agenda, the United States will accept the establishment of the compliance panel.
4. The Parties will cooperate to enable the compliance panel to circulate its report within 90 days of the panel's establishment, excluding such time as the compliance panel's work may be suspended pursuant to Article 12.12 of the DSU.
5. In case of an appeal of the compliance panel report, the Parties will cooperate to enable the Appellate Body to circulate its report within 90 days from the date of notification of the appeal to the DSB.
6. With respect to the adoption of the panel and Appellate Body reports in the Article 21.5 proceedings, the parties recognize that the time-frames of Articles 16 and 17.14 of the DSU apply.
7. In the event that the DSB finds that the United States has failed to comply with the recommendations and ruling of the DSB or that a measure taken by the United States to comply with the recommendations and rulings of the DSB is inconsistent with a covered agreement, Argentina may request authorization to suspend concessions or other obligations under Article 22.2 of the DSU. Argentina will not request authorization to suspend concessions or other obligations under Article 22.2 of the DSU until the adoption by the DSB of its recommendations and rulings in the DSU Article 21.5 proceeding. If, on the basis of these recommendations and rulings, Argentina decides to seek authorization from the DSB for

the suspension of concessions or other obligations under Article 22.2 of the DSU, the United States will not assert that Argentina is precluded from obtaining such authorization because its request was made outside the time-period specified in Article 22.6 of the DSU. This is without prejudice to the United States' right to have the matter referred to arbitration in accordance with Article 22.6 of the DSU.

8. If Argentina requests authorization to suspend concessions or other obligations pursuant to Article 22.2 of the DSU, and if the United States objects under Article 22.6 of the DSU to the level of suspension of concessions or other obligations and/or claims that the principles and procedures set forth in DSU Article 22.3 have not been followed, the matter will be referred to arbitration pursuant to DSU Article 22.6.
9. The Parties will cooperate to facilitate the participation of the original panelists in the compliance panel and the DSU Article 22.6 arbitration.
10. If any of the original panelists is not available either for the compliance panel or for the DSU Article 22.6 arbitration, or both, the Parties will promptly consult on a replacement and either Party may request the Director-General of the WTO to appoint, within 10 days of the request, a replacement for the proceeding or proceedings in which such a replacement is required. If an original panelist is unavailable to serve in either of the proceedings, the Parties will further request that in making this appointment, the Director-General seek a person who will also be available to act in both proceedings.
11. The Parties agree to continue to cooperate in all matters referred to in these agreed procedures and not to raise any procedural objection to any of the steps set out herein. If, during the application of these procedures, the Parties consider that a procedural aspect has not been properly addressed they will endeavour to find a solution within the shortest time possible that will not affect the other agreed procedures.

Agreed in Geneva on 5 January 2006.

For Argentina:

(signed)
Ernesto Martínez Gondra
Minister
Chargé d'affaires a.i.
Permanent Mission of Argentina

For the United States:

(signed)
Peter F. Allgeier
Ambassador
Permanent Mission of the United States
to the WTO
