

**CHILE – PRICE BAND SYSTEM AND SAFEGUARD MEASURES
RELATING TO CERTAIN AGRICULTURAL PRODUCTS**

Understanding Between Argentina and Chile Regarding Procedures
Under Articles 21 and 22 of the DSU

The following communication, dated 24 December 2003, from the delegation of Argentina and the delegation of Chile to the Chairman of the Dispute Settlement Body, is circulated at the request of these delegations.

The Argentine Republic and the Republic of Chile would like to inform the Dispute Settlement Body that they have concluded the attached "Understanding between the Argentine Republic and the Republic of Chile Regarding Procedures Under Articles 21 and 22 of the DSU with Respect to the Dispute *Chile – Price Band System and Safeguard Measures Relating to Certain Agricultural Products* (WT/DS207)".

(signed)
Alicia de Hoz
Minister
Chargé d'Affaires a.i.
Permanent Mission of the Argentine Republic
to the United Nations Office at Geneva

(signed)
Alejandro Jara Puga
Ambassador
Permanent Representative of Chile
to the WTO

**Understanding Between the Argentine Republic and the Republic of Chile Regarding
Procedures Under Articles 21 and 22 of the DSU with Respect to the Dispute
*Chile – Price Band System and Safeguard Measures Relating
to Certain Agricultural Products (WTO/DS207)***

Considering that on 23 October 2002 the Dispute Settlement Body (DSB) adopted the Report of the Appellate Body¹ and the Report of the Panel² as modified by the Appellate Body in the dispute *Chile – Price Band System and Safeguard Measures Relating to Certain Agricultural Products*;

Recalling that on 6 December 2002, Chile communicated a request to the DSB "that the determination of a reasonable period be the subject of binding arbitration, in accordance with Article 21.3(c) of the Understanding on Rules and Procedures Governing the Settlement of Disputes."³

Given that on 17 March 2003, the award of the arbitrator determined that the reasonable period of time for Chile to implement the recommendations and rulings of the DSB was 14 months from the date of adoption of the above-mentioned reports, and that this reasonable period of time expired on 23 December 2003;

Considering that Argentina and Chile disagree, within the meaning of Article 21.5 of the DSU, as to the consistency of the measures taken by Chile with the recommendations and rulings of the DSB, and that it is therefore necessary to agree on the rules of procedure applicable to Article 21.5 and 22.6 of the DSU for the exclusive purposes of the dispute referred to as WT/DS207;

The Argentine Republic and the Republic of Chile hereby agree as follows:

1. If it so deems appropriate, Argentina shall request consultations, which the parties shall agree to hold within 15 days from the date of circulation of the request. Argentina and Chile agree that at the end of such consultations, should either party so state, the parties shall jointly consider that the consultations have failed to settle the dispute.
2. Consequently, as from the date of the said statement, Argentina shall be entitled to request the establishment of a panel pursuant to Article 21.5 of the DSU.
3. At the first DSB meeting in which Argentina's request for the establishment of an Article 21.5 panel appears on the agenda, Chile shall accept the establishment of that panel.
4. Argentina and Chile shall cooperate to enable the Article 21.5 panel to circulate its report within 90 days of the panel's establishment, excluding such time during which the panel's work may be suspended pursuant to Article 12.12 of the DSU.
5. In case there is an appeal against the Article 21.5 panel report, Argentina and Chile shall cooperate to enable the Appellate Body to circulate its report within no more than 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 time-frames of Articles 16 and 17.14 of the DSU shall apply.

¹ WT/DS207/AB/R.

² WT/DS207/R.

³ WT/DS207/9.

7. Argentina 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 reports. If on the basis of the results of these reports, Argentina should decide to initiate proceedings under Article 22 of the DSU, Chile shall not assert that Argentina is precluded from obtaining DSB authorization because its request was made outside the 30-day time-period specified in Article 22.6 of the DSU. This is without prejudice to Chile's right to have the matter referred to arbitration in accordance with Article 22.6.

8. If Argentina requests authorization to suspend concessions or other obligations pursuant to Article 22.2 of the DSU, and if Chile objects under Article 22.6 of the DSU to the level of suspension of concessions or other obligations and/or makes a claim under DSU Article 22.3, the matter shall be referred to arbitration pursuant to DSU Article 22.6. Argentina shall not pose any objection to the referral of the matter to such arbitration.

9. If any of the original panellists were not available either for the Article 21.5 panel or for the Article 22.6 arbitration, or both, Argentina and Chile agree to request the Director-General of the WTO to appoint, as soon as possible, a replacement for the proceeding or proceedings in which such a replacement is required.

10. Argentina and Chile agree to continue to cooperate in all matters referred to in this Understanding and not to raise any procedural objections to any of the steps set out therein. If, during the application of these procedures, Argentina and Chile consider that a procedural aspect has not been properly addressed they shall endeavour to find a solution within the shortest time possible that will not affect the other aspects and steps herein agreed.

Agreed in Geneva on 24 December 2003

(signed)
Alicia de Hoz
Minister
Chargé d'Affaires a.i.
Permanent Mission of the Argentine Republic
to the United Nations Office at Geneva

(signed)
Alejandro Jara Puga
Ambassador
Permanent Representative of Chile
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