

Original: English

**ARGENTINA – DEFINITIVE ANTI-DUMPING DUTIES
ON POULTRY FROM BRAZIL**

Request for Consultations by Brazil

The following communication, dated 7 November 2001, from the Permanent Mission of Brazil to the Permanent Mission of Argentina and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

Upon instruction from my authorities, I hereby wish to convey the request of the Government of Brazil for consultations with the Republic of Argentina pursuant to Article 4 of the Understanding on Rules Procedures Governing the Settlement of Disputes (DSU), Article XXII of the General Agreement on Tariffs and Trade 1994 (GATT 1994), Article 17 of the Agreement on Implementation of Article VI of GATT 1994 (Anti-Dumping Agreement), including Article 17.4 thereof, and Article 19 of the Agreement on Implementation of Article VII of GATT 1994 (Agreement on Customs Valuation).

The measure at issue is the definitive anti-dumping duties imposed by the Argentinean Authorities on imports of poultry from Brazil, classified under Mercosul tariff line 0207.11.00 and 0207.12.00, adopted by the Ministry of Economy of Argentina in Resolution 574 from 21 July 2000, published in the Argentinean Official Gazette on 24 July 2000.

Brazil considers that the definitive anti-dumping duties imposed, as well as the investigation conducted by the Argentinean Authorities may have been flawed and based on erroneous or deficient procedures, inconsistent with Argentina's obligations under the Anti-Dumping Agreement and the GATT 1994, and under the Customs Valuation Agreement. These inconsistencies relate to, but are not limited to, the following aspects:

- (i) the initiation of the investigation, with regard to the evidence of dumping and injury;
- (ii) the failure in providing the text of the written application for the investigation to the exporters and the Brazilian Government as soon as the investigation had initiated;
- (iii) the conduct of the investigation, including the evaluation, finding and determinations of dumping, injury and the causal link between them, and disregard of most of the information presented by the Brazilian exporters without proper justification;
- (iv) the deficient public notice of final determination of dumping, including the failure to disclose the essential facts under consideration, which formed the basis of the decision to impose the anti-dumping measures;

./.

- (v) the imposition of the anti-dumping duties; and
- (vi) customs value determined on the basis of minimum customs value.

For the above reasons, the anti-dumping measure at issue appears to be inconsistent with Argentina's obligations under the Anti-Dumping Agreement, thereby nullifying or impairing the benefits accrued to Brazil under that Agreement.

More specifically, the Government of Brazil considers that infringements of, *inter alia*, the following provisions of the Anti-Dumping Agreement, in addition to Article VI of GATT 1994, may have been committed by Argentina:

- (i) Article 1 (*Principles*);
- (ii) Article 2 (*Determination of Dumping*), including paragraphs 2.1, 2.3, 2.4 and 2.6 thereof;
- (iii) Article 3 (*Determination of Injury*), including paragraphs 3.1, 3.4, 3.5 thereof;
- (iv) Article 4 (*Definition of Domestic Industry*), including paragraph 4.1 thereof;
- (v) Article 5 (*Initiation and Subsequent Investigation*), including paragraphs 5.2, 5.3 (in conjunction with Articles 2 and 3), 5.7 and 5.8 thereof;
- (vi) Article 6 (*Evidence*), including subparagraph 6.1.3, and paragraph 6.8 in conjunction with paragraphs 1, 3, 5, 6 and 7 of Annex II;
- (vii) Article 9 (*Imposition and Collection of Anti-Dumping Duties*), including 9.1 and 9.2 thereof;
- (viii) Article 12 (*Public Notice and Explanation of Determinations*), including paragraphs 12.1 and 12.2 thereof.

In relation to the Agreement on Customs Valuation, Brazil considers that Articles 1 and 7 may have been breached by Argentina.

In light of the DSU provisions governing this matter, including Article 4.3 thereof, as well as Article 17 of the Anti-Dumping Agreement and 19 of the Customs Valuation Agreement, my Authorities look forward to receiving in due course the reply of Argentina to this request. Brazil is ready to consider with Argentina mutually convenient dates to commence consultations in Geneva.

The Government of Brazil reserves the right to raise additional factual or legal points related to the aforementioned measure during the course of consultations.
