

**COLOMBIA – INDICATIVE PRICES AND  
RESTRICTIONS ON PORTS OF ENTRY**

Understanding between Panama and Colombia  
Regarding Procedures under Articles 21 and 22 of the DSU

The following communication, dated 23 February 2010, from the delegation of Panama and the delegation of Colombia to the Chairman of the Dispute Settlement Body, is circulated at the request of these delegations.

---

In relation to the above mentioned proceedings, the parties to the dispute hereby submit their Agreed Procedures under Articles 21 and 22 of the Dispute Settlement Understanding.

Iván Vergara  
Chargé d'Affairs, a.i.  
Permanent Mission of Panama to the WTO

Eduardo Muñoz  
Ambassador, Permanent Representative  
Permanent Mission of Colombia to the WTO

Agreed Procedures under Articles 21 and 22 of the Dispute Settlement Understanding

*Colombia – Indicative Prices and Restrictions on Ports of Entry*  
(DS366)

The Dispute Settlement Body (DSB) adopted the Panel Report in the dispute *Colombia – Indicative Prices and Restrictions on Ports of Entry*, (WT/DS366) on 20 May 2009.

On 2 October 2009, 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 Colombia a reasonable period of time of 8 months and 15 days to implement the recommendations and rulings adopted by the DSB (WT/DS366/13). The reasonable period of time for implementation ended on 4 February 2010.

Panama and Colombia ("the parties to the dispute") have agreed on the following procedures for the sole purposes of this dispute. They are designed to facilitate the resolution of the dispute and reduce the scope for procedural disputes and are without prejudice to either party's views on the correct interpretation of the DSU:

1. Should Panama consider that the situation described in Article 21.5 of the DSU exists, Panama will request consultations, which the parties to the dispute will hold within 20 days from the date of circulation of such request.

Panama may at any time following the failure of consultations within the above set period of time request the establishment of a panel pursuant to Article 21.5 of the DSU.

2. At the first DSB meeting at which Panama's request for the establishment of an Article 21.5 compliance panel appears on the agenda, Colombia will accept the establishment of that compliance panel.
3. The parties to the dispute will cooperate to enable the Article 21.5 compliance 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.
4. Either party to the dispute may request the DSB to adopt the report of the Article 21.5 compliance panel at a DSB meeting held at least 30 days after the circulation of the report to the Members unless either party appeals the report.
5. In the event of an appeal of the Article 21.5 panel report, the parties to the dispute will cooperate to enable the Appellate Body to circulate its report to the Members within 90 days from the date of notification of the appeal to the DSB.
6. In the event of an appeal, either party to the dispute may request the DSB to adopt the reports of the Appellate Body and the Article 21.5 compliance panel (as upheld, modified or reversed by the Appellate Body), at a DSB meeting held within 30 days of the circulation of that report to the Members.
7. In the event that the DSB finds, following a proceeding under Article 21.5 of the DSU, that Colombia has failed to comply with the recommendations and rulings of the DSB, or that the measure taken to comply does not exist or is inconsistent with a covered agreement, Panama may request Colombia to enter into negotiations with a view to developing mutually acceptable compensation. If no satisfactory compensation has been agreed within 20 days after the adoption by the DSB of the rulings and recommendations under Article 21.5 of the

DSU, Panama may request authorisation to suspend concessions or other obligations in accordance with Article 22.2 of the DSU.

8. Colombia will not assert that Panama is precluded from obtaining such DSB authorization to suspend concessions or other obligations on the grounds that the request was made outside the 30-day time-period specified in Article 22.6 of the DSU. This is without prejudice to Colombia's right to have the matter referred to arbitration in accordance with Article 22.6 of the DSU.
9. If Panama requests authorisation to suspend concessions or other obligations pursuant to Article 22.2 of the DSU, and if Colombia 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 Article 22.3 of the DSU have not been followed, the matter will be referred to arbitration pursuant to Article 22.6 of the DSU.
10. The parties to the dispute will cooperate to enable the arbitrator in DSU Article 22.6 proceedings to circulate its decision within 60 days of the referral to arbitration.
11. If any of the original panelists is not available for either the Article 21.5 compliance panel or the DSU Article 22.6 arbitration proceedings (or both), the parties to the dispute will promptly consult on a replacement, and either party may request the Director-General of the WTO to appoint, within ten days of being so requested, a replacement for the proceeding or proceedings in which a replacement is required. If an original panelist is unavailable to serve in either of the proceedings, the parties to the dispute will further request that, in making this appointment, the Director-General seek a person who will be available to act in both proceedings.
12. The parties to this dispute will continue to cooperate in all matters related to these agreed procedures and agree not to raise any procedural objection to any of the steps set out herein. If, during the application of these procedures, the parties to the dispute consider that a procedural aspect has not been properly addressed in these procedures, they will endeavor to find a solution within the shortest time possible that will not affect the other aspects and steps agreed herein.

Signed in Geneva, Switzerland, the 23<sup>rd</sup> day of February, 2010.

For Panama

For Colombia

---

Iván Vergara  
Chargé d'Affairs, a.i.

---

Eduardo Muñoz  
Ambassador, Permanent Representative

---