

BRAZIL – MEASURES AFFECTING IMPORTS OF RETREADED TYRES

Status Report by Brazil

Addendum

The following communication, dated 7 May 2009, from the delegation of Brazil to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 21.6 of the DSU.

Status Report Regarding Implementation of the
DSB Recommendations and Rulings in the Dispute
Brazil – Measures Affecting Imports of Retreaded Tyres
(WT/DS332)

1. Brazil submits this report in accordance with Article 21.6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes.
2. On 17 December 2007, the Dispute Settlement Body ("DSB") adopted the Panel and the Appellate Body reports in *Brazil – Measures Affecting Imports of Retreaded Tyres* (WT/DS332). At the DSB meeting on 15 January 2008, Brazil informed the DSB of its intention to implement the recommendations and rulings of the DSB. At the same meeting, Brazil stated that it would need a "reasonable period of time" to do so, according to Article 21.3 of the DSU.
3. In January 2008, Brazil and the EC initiated discussions with a view to agreeing on a "reasonable period of time". The matter was referred to arbitration by the EC pursuant to Article 21.3(c) of the DSU on 4 June 2008. The Arbitrator was composed by the Director-General on 26 June 2008. The arbitration award, circulated on 29 August 2008, established that the reasonable period of time for the implementation was 12 months.
4. As announced in Brazil's first status report in this dispute (WT/DS332/19), the judgment of the Supreme Court's judicial action brought by Brazil's Executive Branch in the form of an Allegation of Violation of Fundamental Precept (ADPF 101) with the objective to seek a final ruling to prevent lower courts from issuing preliminary injunctions allowing imports of used tyres in Brazil, as well as to revoke injunctions already granted, was initiated on 11 March 2009. The Reporting Judge's vote, widely favourable to the request of the Executive Branch, acknowledged the relevance of the import ban on used tyres to Brazil's comprehensive strategy to deal with waste tyres.
5. As Brazil informed in its second status report, the proceedings before the Supreme Court concerning ADPF 101 were suspended due to the request of one of the 11 Justices of the Court to

review the record of the case, a regular procedure in Brazil's and other countries' judicial systems. The judgment will be resumed as soon as the record is returned to the plenary of the Court.

6. Details on the record of the judicial action can be found at the following website:

<http://www.stf.jus.br/portal/processo/verProcessoAndamento.asp?numero=101&classe=ADPF&origem=AP&recurso=0&tipoJulgamento=M> .

Video footage of the session held on 11 March can be downloaded from:

http://www.tvjustica.jus.br/videos/DIRETO_DO_PLENARIO_11_03_09_PARTE_1.wmv

http://www.tvjustica.jus.br/videos/DIRETO_DO_PLENARIO_11_03_09_PARTE_2.wmv

http://www.tvjustica.jus.br/videos/DIRETO_DO_PLENARIO_11_03_09_PARTE_3.wmv

http://www.tvjustica.jus.br/videos/DIRETO_DO_PLENARIO_11_03_09_PARTE_4.wmv

7. As stated in previous opportunities, Brazil believes that the judgment of ADPF 101 constitutes a fundamental step in the strengthening of Brazil's environmental policy concerning tyres, as well as for the implementation of the recommendations and rulings of the DSB in this dispute.
