

PHILIPPINES – TAXES ON DISTILLED SPIRITS

Communication from the United States and the Philippines concerning
Article 21.3(c) of the DSU

The following communication, dated 6 March 2012, from the delegation of the United States and the delegation of the Philippines to the Chairperson of the Dispute Settlement Body, is circulated at the request of these delegations.

At its meeting on 20 January 2012, the Dispute Settlement Body ("DSB") adopted its recommendations and rulings in the dispute *Philippines – Taxes on Distilled Spirits* (DS403). Subsequently, by letter dated 15 February 2012 and at the meeting of the DSB held on 22 February 2012, the Philippines announced its intention to implement the DSB's recommendations and rulings in this dispute and stated that it would need a reasonable period of time in which to do so.

Article 21.3(c) of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU") provides that, in the absence of an agreement between the parties on a period of time, the reasonable period of time shall be determined "through binding arbitration within 90 days after the date of adoption of the recommendations and rulings."

In order to allow sufficient time for the parties to discuss a mutually agreed period, the United States and the Philippines (i) agree that, in the event an arbitration under Article 21.3(c) of the DSU is requested, it shall be completed no later than 60 days after the date of the appointment of an arbitrator, unless the arbitrator, following consultation with the parties, considers that additional time is required; and (ii) hereby confirm that any award of the arbitrator (including an award not made within 90 days after the date of adoption of the DSB recommendations and rulings) shall be deemed to be an award of the arbitrator for the purposes of Article 21.3(c) of the DSU in determining the reasonable period of time for the Philippines to implement the recommendations and rulings of the DSB.

We respectfully request that you circulate this notification to the Members of the DSB.

For the United States of America

For the Philippines

David P. Shark
Chargé d'Affaires a.i.

Jose Victor Chan-Gonzaga
Chargé d'Affaires, a.i.