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Page: 1/1

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ARGENTINA – MEASURES AFFECTING THE IMPORTATION OF GOODS

COMMUNICATION FROM THE APPELLATE BODY

The following notification, dated 20 November 2014, from the Chair of the Appellate Body addressed to the Chair of the Dispute Settlement Body, is circulated to Members in accordance with Article 17.5 of the Understanding on Rules and Procedures Governing the Settlement of Disputes.

I am writing to you pursuant to Article 17.5 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), which stipulates that, as a general rule, the Appellate Body will circulate its report no later than 60 days after the appellant has formally notified the Dispute Settlement Body (DSB) of its decision to appeal. Article 17.5 states, furthermore, that when the Appellate Body considers that it cannot provide its report within 60 days, it shall inform the DSB in writing of the reasons for the delay together with an estimate of the period within which it will submit its report.

Argentina notified the DSB on 26 September 2014 of its decision to appeal certain issues of law covered in the Panel Reports and legal interpretations developed by the Panel in these disputes, with the result that the 60-day period expires on Tuesday, 25 November 2014. For the reasons expressed below, the Appellate Body will not be able to circulate its report by this date, or within the 90-day timeframe provided for in the last sentence of Article 17.5 of the DSU.

At the time the Division hearing this appeal was composed, the Appellate Body comprised only six, rather than the full complement of seven, Appellate Body Members. The Appellate Body has also faced a substantial workload in the second half of 2014, with several appeals proceeding in parallel, and there has been overlap in the composition of the Divisions hearing these different appeals during this period. Moreover, the 90-day period in these disputes will expire during the annual year-end closure of the WTO Secretariat.

Due to the scheduling issues arising from these circumstances, the number and complexity of the issues raised in these and concurrent appeal proceedings and the demands that this places on the WTO Secretariat's translation services, as well as the intervening closure of the WTO Secretariat for the 2014 year-end period, the Appellate Body will not be able to circulate its report within the 90-day timeframe provided for in Article 17.5 of the DSU.

For these reasons, we estimate that the Appellate Body report in this appeal will be circulated to WTO Members no later than Thursday, 15 January 2015.
