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**COLOMBIA – ANTI-DUMPING DUTIES ON FROZEN FRIES FROM
BELGIUM, GERMANY AND THE NETHERLANDS**

COMMUNICATION FROM THE PANEL

The following communication, dated 16 September 2022, was received from the Chairperson of the Panel with the request that it be circulated to the Dispute Settlement Body.

On 13 July 2020, the European Union and Colombia notified to the DSB their mutual agreement, "pursuant to Article 25.2 of the [DSU] to enter into arbitration under Article 25 of the DSU to decide any appeal from any final panel report as issued to the parties" in the above-mentioned dispute (Agreed Arbitration Procedures).¹ In its Working Procedures for these proceedings, the Panel took "note of the Agreed Procedures for Arbitration under Article 25 of the DSU in this dispute notified by the parties on 13 July 2020 (WT/DS591/3) and of the joint requests of the parties to the Panel formulated therein".²

On 29 August 2022, the Panel, having consulted with the parties, adopted the Additional Working Procedures to facilitate arbitration under Article 25 of the DSU (Additional Working Procedures).³ On the same day, the Panel issued its Final Report to the parties and informed them that the Panel Report would be circulated to Members, after translation into French and Spanish, on 19 September 2022.

According to paragraph 4 of the Agreed Arbitration Procedures, "[f]ollowing the issuance of the final panel report to the parties, but no later than 10 days prior to the anticipated date of circulation of the final panel report to the rest of the Membership, any party may request that the panel suspend the panel proceedings with a view to initiating the arbitration under these agreed procedures." Given that the circulation of the Final Report was scheduled for 19 September 2022, the 10-day deadline for requesting the suspension under the Agreed Arbitration Procedures would have expired on Friday, 9 September 2022 – an official holiday for the WTO.

9 September 2022 being a WTO holiday, Colombia, on 6 September 2022, informed the Panel of its intention "to present the Request for Suspension envisaged in paragraph 4 of the Agreed Procedures for Arbitration under Article 25 of the DSU (WT/DS591/3/Rev.1) to the Panel on Monday 12 September 2022" and noted that it was "Colombia's understanding that, in accordance with the DSB Decision on 'Expiration of Time-Periods in the DSU', WT/DSB/M/7, this Request presented on 12 September 2022 [would] be deemed to have been filed within 10 days prior to the circulation of the final Panel Report to the WTO Membership, which is set for 19 September 2022". On the same date, the European Union informed the Panel that it had taken note of Colombia's communication and that it agreed with Colombia that a suspension request filed on 12 September 2022 would be deemed to have been filed in accordance with the 10-day deadline set forth in paragraph 4 of the Agreed Arbitration Procedures. On 7 September 2022, the Panel informed the parties that it had taken note of the parties' communications dated 6 September 2022.

¹ Agreed procedures for arbitration under Article 25 of the DSU, WT/DS591/3 (fn omitted). The parties revised these procedures on 20 April 2021, WT/DS591/3/Rev.1.

² Working Procedures of the Panel (Panel Report, Annex A-1), para. 33.

³ Additional Working Procedures of the Panel to facilitate arbitration under Article 25 of the DSU (Panel Report, Annex A-5).

On 12 September 2022, the Panel received a communication from Colombia requesting the Panel to suspend its work in this dispute in accordance with Article 12.12 of the DSU in order to facilitate arbitration under the Agreed Arbitration Procedures.⁴ According to paragraph 4 of the Agreed Arbitration Procedures "such request by any party is deemed to constitute a joint request by the parties for suspension of the panel proceedings for 12 months pursuant to Article 12.12 of the DSU".

Upon receipt of this suspension request, on 13 September 2022, the Panel instructed the Dispute Settlement (DS) Registry to "transmit immediately the original English language version of the final Panel Report ... to the pool of arbitrators", in accordance with paragraph 2 of the Additional Working Procedures. Following the translation of the Panel Report into Spanish and French, and in accordance with paragraph 1 of the Additional Working Procedures, the Panel "transmit[ted] the final Panel Report in the three working languages of the WTO (the 'Translated Report') to the parties, third parties and the pool of arbitrators" on 16 September 2022.

Paragraph 3 of the Additional Working Procedures provides that "[o]nce the Translated Report has been transmitted to the parties, third parties and the pool of arbitrators, the Panel shall grant the request to suspend the Panel proceedings and indicate when suspension takes effect". The Panel hereby informs the Dispute Settlement Body of its decision of 16 September 2022 to grant the request to suspend the panel proceedings effective the same day. The Panel will therefore not circulate its final Report to Members unless the Panel is requested to resume its work within the time-period that is specified in Article 12.12 of the DSU.

The Panel recalls paragraph 6 of its Additional Working Procedures, which states that "[o]nce transmitted to the parties, third parties and the pool of arbitrators, the original final Panel Report and/or the Translated Report remain confidential" until the filing of a "Notice of Appeal".

In the event that a "Notice of Appeal" is filed, in accordance with paragraph 4 of the Additional Working Procedures, the record of the Panel proceedings will be transmitted to the arbitrators "as soon as possible" after they are appointed.

Paragraph 4 of the Additional Working Procedures also requires the Panel to "consult with the third parties concerned with a view to transmitting, as part of the Panel record, the third-party submissions, third-party oral statements and third-party responses to questions." Pursuant to this provision, the Panel sought the views of the third parties by a letter dated 14 September 2022.

The Panel requests that this communication be circulated to Members.

⁴ Article 12.12 of the DSU provides that the Panel may suspend its work at any time at the request of the complaining party for a period not exceeding 12 months. This provision also indicates that if the work of the Panel has been suspended for more than 12 months, the authority for establishment of the Panel shall lapse.