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PERU – ADDITIONAL DUTY ON IMPORTS OF CERTAIN AGRICULTURAL PRODUCTS

**COMMUNICATION FROM GUATEMALA AND PERU CONCERNING
ARTICLE 21.3(B) AND 21.3(C) OF THE DSU**

The following communication, dated 14 September 2015, from the delegation of Guatemala and the delegation of Peru to the Chairperson of the Dispute Settlement Body, is circulated at the request of these delegations.

On 31 July 2015, the Dispute Settlement Body (DSB) adopted the Panel and Appellate Body reports in *Peru — Additional Duty on Imports of Certain Agricultural Products* (WT/DS457). At the same meeting of the DSB, Peru notified the DSB that it intends to implement the recommendations and rulings of the DSB in this dispute, and stated that it would need a reasonable period of time for implementation. At the DSB meeting of 31 August 2015, Peru reiterated that it would need a reasonable period of time for implementation.

Article 21.3(b) of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (DSU) provides that in the absence of a time proposed by the Member concerned and approved by the DSB the reasonable period of time shall be "a period of time mutually agreed by the parties to the dispute within 45 days after the date of adoption of the recommendations and rulings." Article 21.3(c) of the 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 for further discussions, Guatemala and Peru (i) agree that any agreement between the parties on a reasonable period of time shall be considered to be an agreement under Article 21.3(b) even if concluded outside the 45 days period; (ii) equally agree that an arbitration under Article 21.3(c) of the DSU 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 (iii) hereby confirm that any award of the arbitrator (including awards not made within 90 days after the date of adoption of the 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 Peru to implement the recommendations and rulings of the DSB.

For Guatemala

For Peru

Eduardo Sperisen Yurt
Ambassador

Luis Enrique Chavez Basagoitia
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