

**DOMINICAN REPUBLIC – MEASURES AFFECTING THE IMPORTATION  
AND INTERNAL SALE OF CIGARETTES**

*Arbitration  
under Article 21.3(c) of the  
Understanding on Rules and Procedures  
Governing the Settlement of Disputes*

Report of the Arbitrator  
John Lockhart

1. On 19 May 2005, the Dispute Settlement Body (the "DSB") adopted the Appellate Body Report<sup>1</sup> and the Panel Report<sup>2</sup>, as modified by the Appellate Body Report, in *Dominican Republic – Measures Affecting the Importation and Internal Sale of Cigarettes*.<sup>3</sup> At the DSB meeting of 13 June 2005, the Dominican Republic confirmed its intention to implement the recommendations and rulings of the DSB in this dispute and stated that it would require a "reasonable period of time" in which to do so, pursuant to Article 21.3 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (the "DSU").<sup>4</sup>
2. On 12 July 2005, Honduras informed the DSB that consultations with the Dominican Republic had not resulted in agreement on the reasonable period of time for implementation. Honduras, therefore, requested that such period be determined by binding arbitration, in accordance with Article 21.3(c) of the DSU.<sup>5</sup>
3. In a joint letter dated 14 July 2005, Honduras and the Dominican Republic communicated to the Chairman of the DSB their agreement that, notwithstanding the 90-day period for arbitration described in Article 21.3(c) of the DSU (which would expire on 17 August 2005), an arbitration completed within 60 days after the date of the appointment of the arbitrator would be deemed by the parties to be the award of the arbitrator under Article 21.3(c) of the DSU.<sup>6</sup>
4. On 21 July 2005, the parties requested me to act as Arbitrator, pursuant to Article 21.3(c) of the DSU, to determine the reasonable period of time for implementation of the recommendations and rulings of the DSB in respect of this matter. I accepted the appointment on 22 July 2005<sup>7</sup>, and undertook to issue my award no later than 20 September 2005.
5. By joint letter to me dated 29 July 2005, Honduras and the Dominican Republic communicated their agreement to suspend the arbitration proceedings, pending agreement on a reasonable period of time for implementation. By letter dated 4 August 2005, I acknowledged receipt of the joint letter and agreed to treat the matter as suspended until further notice.<sup>8</sup>

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<sup>1</sup>Appellate Body Report, WT/DS302/AB/R.

<sup>2</sup>Panel Report, WT/DS302/R.

<sup>3</sup>WT/DS302/12.

<sup>4</sup>WT/DSB/M191, para. 27.

<sup>5</sup>WT/DS302/13.

<sup>6</sup>WT/DS302/14.

<sup>7</sup>WT/DS302/15.

<sup>8</sup>WT/DS302/16.

6. By joint letter to me dated 16 August 2005, the parties informed me that they had reached agreement on the reasonable period of time for compliance in this matter, and requested that I "issue such rulings reflecting this agreement as [I] may deem appropriate in the circumstances". The parties' agreement is set out in the joint letter dated 16 August 2005, attached as Annex 1 to this Report. Under the circumstances, it will not be necessary for me to issue an award in this arbitration.

Signed in the original at Sydney this 25th day of August 2005 by:

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John Lockhart  
Arbitrator