

COLOMBIA – PORTS OF ENTRY¹

(DS366)

PARTIES		AGREEMENT	TIMELINE OF THE DISPUTE	
Complainant	Panama	GATT Arts. XI:1, XIII:1, V:2 V6 and I:1	Establishment of Panel	22 October 2007
			Circulation of Panel Report	27 April 2009
Respondent	Colombia		Circulation of AB Report	NA
			Adoption	20 May 2009

1. MEASURE AND PRODUCT AT ISSUE

- Measures at issue: Colombian customs regulations establishing the use of indicative prices and restrictions on ports of entry.
- Product at issue: Certain textiles, apparel and footwear classifiable under HS Chapters 50-64 of Colombia's Tariff Schedule, which were exported and re exported from the Colon Free Zone ("CFZ") and Panama to Colombia.

2. SUMMARY OF KEY PANEL FINDINGS

- Customs Valuation Agreement Arts. 1, 2, 3, 5, 6, and 7.2(b) and (f) (Indicative Prices): The Panel found that Colombia's use of indicative prices constituted customs valuation and that the measures establishing indicative prices, by mandating their use for customs valuation purposes, were inconsistent "as such" with the obligation established in the Customs Valuation Agreement to apply, in a sequential manner, the methods of valuation provided in Arts. 1, 2, 3, 5 and 6 of the Agreement. The Panel further found that, by mandating the use of the higher of two values, or a minimum price as the customs value of subject goods, the measures were inconsistent "as such" with Art. 7.2(b) and (f).
- GATT Art. XI:1: Import restrictions (Ports of entry measure): The Panel found that Colombia's prohibition of the importation of textiles, footwear and apparel from Panama or the CFZ except at the ports of Bogota and Barranquilla, was a prohibited restriction on importation within the meaning of Art. XI:1 of the GATT 1994.
- GATT Art. I:1: MFN (Advance declaration and legalization requirements): The Panel found that, by subjecting textile, apparel and footwear imports arriving from Panama and the CFZ to an advance import declaration requirement, which thereby requires payment of customs duties and sales tax in advance and prevents importers from inspecting goods on site upon arrival in order to verify the accuracy of the declaration, Colombia confers advantages to like products from all other WTO Members that are not extended immediately and unconditionally to textile, apparel and footwear imports from Panama and the CFZ in violation of GATT Art. I.1.
- GATT Art. V:2: "Freedom of transit" for "traffic in transit" (Ports of entry measure): By requiring that goods undergo trans-shipment in order to proceed in international transit, the Panel found that Colombia failed to extend freedom of transit via the most convenient routes to goods arriving from Panama in international transit within the meaning of GATT Art. V:2, first sentence, as informed by Art. V:1 The Panel also found that Colombia made distinctions based on the place of origin or departure of textiles, apparel and footwear arriving from Panama or the CFZ, in violation of Art. V:2, second sentence.
- GATT Art. XX(d): Necessary to secure compliance (Ports of entry measure): The Panel found that Colombia failed to establish that the ports of entry measure is necessary to ensure compliance with Colombian customs laws and regulations under GATT Art. XX(d).

¹ Colombia – Indicative Prices and Restrictions on Ports of Entry.