

Original: English

**EUROPEAN COMMUNITIES – REGIME FOR THE IMPORTATION,
SALE AND DISTRIBUTION OF BANANAS**

Request for Consultations by
Honduras, Mexico, Guatemala, Panama and the United States

The following communication, dated 20 January 1999, from the Permanent Missions of Guatemala, Honduras, Mexico, Panama and the United States to the Permanent Delegation of the European Commission and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

The 15-month reasonable period of time for the EC to implement the Dispute Settlement Body's recommendations and rulings in "European Communities – Regime for the Importation, Sale and Distribution of Bananas" ended on 1 January 1999. Regrettably, during this period, the EC modified its regime in a manner that will not permit this dispute to conclude at this time on the basis of a solution that is acceptable to our governments.

In order to try to achieve a mutually-acceptable solution consistent with the WTO Agreement, our governments, jointly and severally, request consultations with the EC concerning the EC banana regime established by EC Regulation 404/93, as amended and implemented by Council Regulation 1637/98 of 20 July 1998 and EC Commission Regulation 2362/98 of 28 October 1998. We are making this request pursuant to Article 4 of the Dispute Settlement Understanding, Article XXII of the General Agreement on Tariffs and Trade 1994 (GATT 1994), Article XXII of the General Agreement on Trade in Services (GATS), and Article 6 of the Agreement on Import Licensing Procedures (to the extent it incorporates by reference Article XXII of GATT 1994).

Our objective is to clarify and discuss in detail with the EC the various aspects of the EC's modified banana regime, including their effect on the market, our concerns about their WTO-inconsistency, and ways that the EC might modify its regime in order to produce a satisfactory settlement of this dispute. Article 3.7 of the WTO Dispute Settlement Understanding makes clear that the aim of dispute settlement is to secure a "positive solution" to the dispute and that "a solution mutually acceptable to the parties to a dispute and consistent with the covered agreements is clearly to be preferred." Such a negotiated solution is clearly preferable to simply pursuing additional dispute settlement procedures.

This request for consultations is without prejudice to our rights as individual Members to pursue any procedures under the Dispute Settlement Understanding.

In light of our objective of seeking a mutually acceptable solution consistent with the WTO Agreement, please advise us promptly of the possible dates on which EC representatives would be available to engage in a meeting with our governments to consult on the issues described above.
