

UNITED STATES – ANTI-DUMPING ACT OF 1916

Communication from Mexico

The following communication, dated 24 July 2000, from the Permanent Mission of Mexico to the Chairman of the Dispute Settlement Body, is circulated at the request of Mexico.

The purpose of this communication is to express the deep concern of the Government of Mexico with regard to the handling of the Panel Report in "United States – Anti-Dumping Act of 1916" (complaint by Japan) as explained in the communication of the Chairman of the Panel (WT/DS162/7).

For the reasons set out below, Mexico considers that omitting the descriptive sections of the Panel report and circulating only part of the report is contrary to the Dispute Settlement Understanding:

- (a) Article 15.2 of the Dispute Settlement Understanding clearly establishes that reports include both descriptive sections and also findings and conclusions, and not only the latter. This idea is again set out in Appendix III of the Understanding.
- (b) Article 17 of the Understanding makes it clear that appellate proceedings concern "a panel report". In this particular case, only the findings and conclusions section of the Panel report was appealed. This will in turn affect the rights of third parties in the event of an appeal.
- (c) Various provisions of the DSU will be seriously affected if reports are allowed to be divided up and circulated in parts, particularly Articles 15.1, 15.2, 17.4 and 17.6.
- (d) Separating out the descriptive sections of a panel report is contrary to GATT practice as well as the practice followed in the WTO itself, thus infringing Article XVI:1 of the WTO Agreement.

The above-mentioned provisions are substantive ones and cannot be modified by Members that are parties to a specific procedure nor by panels.

Furthermore, the publication of the findings and conclusions section of the report before the final report was ready is contrary to the "Procedures for the circulation and derestriction of documents", under which panel reports remain restricted until they have been circulated to Members. In this case, since the final report of the Panel has not yet been issued, there is no reason to publish only the findings and conclusions section.
