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MEXICO - ANTI-DUMPING INVESTIGATION OF HIGH-FRUCTOSE  
CORN SYRUP (HFCS) FROM THE UNITED STATES

Request for Consultations by the United States

The following communication, dated 4 September 1997, from the Permanent Mission of the United States to the Permanent Mission of Mexico and to the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

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My authorities have instructed me to request consultations with the Government of Mexico pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes and Article 17.3 of the Agreement on Implementation of Article VI of the GATT 1994 (the Anti-Dumping Agreement) regarding the anti-dumping investigation of high-fructose corn syrup (HFCS) from the United States conducted by the Secretariat of Commerce and Industrial Development (SECOFI) of the Government of Mexico, the 25 June 1997 preliminary determination of dumping and injury in that investigation and the consequent imposition of provisional measures on imports of HFCS from the United States.

On 17 February 1997, the Secretary of Commerce signed a notice initiating this anti-dumping investigation on the basis of an application dated 14 January 1997 from the Mexican National Chamber of Sugar and Alcohol Producers, an association of producers of sugar. The United States considers that this application did not contain the information required under Article 5 of the Anti-Dumping Agreement, and that the determination by SECOFI to initiate an investigation was inconsistent with the obligations of Mexico under Articles 2, 4 and 5 of the Anti-Dumping Agreement.

The United States Government was notified of the decision to initiate this investigation by telefax on 27 February, and was not provided with a copy of the application until 10 March. The United States considers that the actions of Mexico in this respect are inconsistent with the obligation under Article 5.5 of the Anti-Dumping Agreement to notify the government of the exporting Member concerned "before proceeding to initiate an investigation" and the obligation under Article 6.1.3 of that Agreement to provide the full text of the application "as soon as an investigation has been initiated".

During this investigation, SECOFI authorized a representative of the petitioner domestic industry to inspect the confidential information provided by respondent US exporters. The respondent US exporters were not informed in advance of this disclosure of their confidential information and did not approve of it. The United States considers that the actions of Mexico in this respect are inconsistent with the obligations under Article 6.5 of the Anti-Dumping Agreement that "confidential information shall not be disclosed without specific permission of the party submitting it".

During this anti-dumping investigation, the Mexican authorities have been extremely slow in placing relevant information, including the filings of the petitioner, in its public file. The United States considers that the actions of Mexico in this respect are inconsistent with the requirement under Article 6.2 of the Anti-Dumping Agreement that "[t]hroughout the anti-dumping investigation all interested parties shall have a full opportunity for the defence of their interests" and the provisions of Article 6.4 of that Agreement which require that "[t]he authorities shall whenever practicable provide timely opportunities for all interested parties to see all information that is relevant to the presentation of their cases, that is not confidential ..., and that is used by the authorities in an anti-dumping investigation, and to prepare presentations on the basis of this information".

The United States reserves its right to raise further factual claims and legal matters during the course of consultations.

We look forward to receiving your reply to the present request and to fixing a mutually convenient date for consultations.