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UNITED STATES - STANDARDS FOR REFORMULATED AND CONVENTIONAL GASOLINE

Request for Establishment of Panel by Venezuela under Article XXIII:2 of the GATT 1994 and Article 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU)

The following communication, dated 25 March 1995, sent by the Permanent Mission of Venezuela to the Dispute Settlement Body (DSB), is circulated to Members. In accordance with Article 6:1, footnote 5 of the DSU, Venezuela requests that a meeting of the DSB be convened on 10 April 1995 for the purpose of considering its request to establish a panel.

The Permanent Mission of Venezuela to the United Nations Office and International Organizations at Geneva presents its compliments to the Chairman of the Dispute Settlement Body of the World Trade Organization (WTO) and wishes to inform him that the Government of Venezuela has decided to request the establishment of a panel, under Article 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), to examine the "Regulation of Fuels and Fuel Additives - Standards for Reformulated and Conventional Gasoline", adopted on 15 December 1993 by the Environmental Protection Agency of the United States of America.

In this connection, the Mission of Venezuela would ask you to arrange, in accordance with footnote 5 to paragraph 1 of Article 6 of the DSU, for the Dispute Settlement Body to hold a meeting on 10 April 1995.

In addition, please circulate the attached communications, reporting on the consultations held, identifying the measure in question and summarizing the legal arguments in support of Venezuela's complaint, in keeping with paragraph 2 of Article 6 of the DSU.

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Request for the Establishment of a Panel Recourse by Venezuela
to Article 6 of the Understanding on Rules and Procedures
Governing the Settlement of Disputes

The Government of Venezuela considers that the final decision adopted on 15 December 1993 by the United States Environmental Protection Agency, **Regulation of Fuels and Fuel Additives - Standards for Reformulated and Conventional Gasoline**, codified at 40, Code of Federal Regulations, Part 80 (hereinafter "Gasoline Regulation") violates the obligations of the United States under the Agreement establishing the World Trade Organization (WTO). Venezuela objects to the Gasoline Regulation because it applies less favourable regulations to imported gasoline than to United States-produced gasoline. The application of the less favourable regulations adversely affects the conditions of competition for the sale of Venezuelan gasoline in the United States.

Specifically, the Gasoline Regulation's discriminatory treatment of Venezuelan gasoline is a violation, among other provisions, of the obligations of the United States under Articles III and I of the General Agreement on Tariffs and Trade 1994 and Article 2 of the Agreement on Technical Barriers to Trade (TBT). At the same time, the Gasoline Regulation nullifies and impairs Venezuela's rights under the Agreement establishing the World Trade Organization.

On 23 January 1995, Venezuela made a formal written request to the United States to hold consultations on the Gasoline Regulation, pursuant to Article XXII:1 of the GATT 1994, Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) and Article 14.1 of the Agreement on Technical Barriers to Trade.

The consultations between Venezuela and the United States took place on 24 February 1995. On that occasion, Venezuela provided the United States with a statement on the violations of the WTO Agreement caused by the Gasoline Regulation and a list of questions on various aspects of the Regulation. In the course of the consultations, the United States did not provide any justification for the measures in question. On 3 March 1995, the United States asked Venezuela four questions. In the week of 20 March 1995, the two countries exchanged written replies to the respective questions.

Since the 60-day period for consultations established in Article 4 of the DSU has ended, and considering that no satisfactory settlement of the complaint has been obtained, Venezuela requests the establishment of a panel, under Article 6 of the Understanding on the Settlement of Disputes (DSU).

The panel will have to examine the consistency of the Gasoline Regulation with Articles III and I of the General Agreement on Tariffs and Trade 1994 and Article 2 of the Agreement on Technical Barriers to Trade and any other relevant provision of the latter agreement. It must also examine the nullification and impairment of the benefits accruing to Venezuela under the WTO Agreement and any other implication of the Gasoline Regulation for Venezuela's gasoline exports to the United States.