

**MEXICO – TAX MEASURES ON SOFT DRINKS
AND OTHER BEVERAGES**

Request for Consultations by the United States

The following communication, dated 16 March 2004, from the delegation of the United States to the delegation of Mexico and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request consultations with the Government of Mexico pursuant to Articles 1 and 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU") and Article XXII:1 of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994"), regarding Mexico's tax measures on soft drinks and other beverages that use any sweetener other than cane sugar. The measures include those published in the *Diario Oficial* on 1 January 2002, as well as any amendments thereto or extensions thereof, and any related or implementing measures¹

Mexico's tax measures include a 20 per cent tax on soft drinks and other beverages that use any sweetener other than cane sugar ("beverage tax"). Beverages that use cane sugar are not subject to the beverage tax. In addition, Mexico's tax measures include a 20 per cent tax on the commissioning, mediation, agency, representation, brokerage, consignment and distribution of soft drinks and other beverages that use any sweetener other than cane sugar ("distribution tax"). The beverage tax and distribution tax have severely restricted US exports to Mexico of beverages and of high fructose corn syrup ("HFCS"), a corn-based sweetener that competes with sugar in many applications.

The United States believes that these taxes are inconsistent with Mexico's national treatment obligations under Article III of the GATT 1994. In particular, they appear to be inconsistent with GATT 1994 Article III:2, first and second sentences, and GATT 1994 Article III:4.

We look forward to receiving your reply to this request and to fixing a mutually acceptable date for consultations.

¹ See *Ley del Impuesto Especial sobre Producción y Servicios, Diario Oficial* (1 Jan. 2002); extended 30 December 2002 and 31 December 2003.