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

Surveillance of Implementation of Recommendations and Rulings

Request for Arbitration by
Ecuador, Guatemala, Honduras, Mexico and the United States

The following communication, dated 17 November 1997, from Ecuador, Guatemala, Honduras, Mexico and the United States to the Chairman of the Dispute Settlement Body, is circulated at the request of these delegations.

On 25 September, the Dispute Settlement Body adopted recommendations and rulings in respect of the panel and Appellate Body reports in European Communities - Regime for the Importation, Sale and Distribution of Bananas. On 16 October 1997, the EC announced to the DSB that it would require a "reasonable period of time" in order to "comply with its international obligations".

Since 29 October, pursuant to Article 21.3(b) of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), we have attempted to reach agreement with the EC on a "reasonable period of time" for the EC's implementation of all the DSB rulings and recommendations. However, we have been unable to make progress. The EC representative has informed us that he is "not authorized" to confirm that such period of time as may be agreed upon is the period in which the EC intends to implement the DSB recommendations and rulings. Such refusal is particularly unfortunate given the plain text of the DSU and the long history of this dispute. In light of the uncertainty which such refusal casts upon any period of time to which our governments are being asked to agree, the governments of Ecuador, Guatemala, Honduras, Mexico and the United States are compelled to request with this letter that the "reasonable period of time" be determined by binding arbitration pursuant to Article 21.3(c).

Pursuant to footnote 12 to the DSU, the representatives of Ecuador, Guatemala, Honduras, Mexico and the United States will immediately open discussions with the EC with a view to achieving agreement on an arbitrator within the next ten days.

Please circulate this request to Members of the Dispute Settlement Body and request the Secretariat to notify the Council for Trade in Goods.