

Original: Spanish

**MEXICO – CERTAIN PRICING MEASURES FOR CUSTOMS VALUATION
AND OTHER PURPOSES**

Request for Consultations by Guatemala

The following communication, dated 22 July 2003, from the Permanent Mission of Guatemala to the Permanent Mission 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 Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Article XXIII of the General Agreement on Tariffs and Trade 1994 (GATT 1994), Article 19 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (Agreement on Customs Valuation) and Article 19 of the Agreement on Agriculture, with respect to the following measures:

1. Mexican customs legislation, including Mexico's Customs Law and in particular, without prejudice to other relevant provisions, Articles 84A, 86A, 144 and 158, as well as the regulations to that Law and subsequent supplementary provisions and/or amendments.
2. The Mexican regulatory framework providing for application of the mechanism of estimated prices, minimum prices or minimum values officially established, including:
 - (a) The *Resolution establishing the mechanism to guarantee the payment of duties on goods subject to estimated prices by the Ministry of Finance and Public Credit*,¹
 - (b) The *Resolution containing the Annex to the Resolution establishing the mechanism to guarantee the payment of duties on goods subject to estimated prices by the Ministry of Finance and Public Credit, published in the Official Journal of the Federation of 28 February 1994*,as well as other rules, resolutions and supplementary provisions and/or amendments thereto.
3. The application of the above rules and procedures for the determination of customs value, and the administrative practices of the Mexican customs authorities, including the methodology used for calculating customs value.

In Guatemala's view, these measures are inconsistent with Mexico's obligations under the WTO Agreements, because they fix and/or apply minimum prices, minimum values or estimated prices officially established for more than 300 imported products, while also requiring the provision

¹ Published in the Official Journal of 28 February 1994.

of a deposit or surety in order to ensure application of this mechanism, without it being possible to put an end to this practice through either the process of verification or determination of the customs value of the imported goods or the guarantee mechanisms specified in Mexican legislation.

In particular, and without prejudice to other relevant provisions in the WTO Agreement, Guatemala considers these measures as inconsistent with:

- (a) Articles I, II, VII and X of the General Agreement on Tariffs and Trade 1947.
- (b) Articles 1, 2, 3, 4, 5, 6, 7, 8, 12, 13, 15, 16 and 22 of the Agreement on Implementation of Article VII of the GATT 1994 and their respective Interpretative Notes as contained in Annex I to that Agreement, and the Ministerial Decision Regarding Cases Where Customs Administrations Have Reasons to Doubt the Truth or Accuracy of the Declared Value.
- (c) Article 4 of the Agreement on Agriculture, including its footnote.
- (d) Paragraph 4 of Article XVI of the Marrakesh Agreement Establishing the World Trade Organization.

In Guatemala's view, the Mexican measures establishing, regulating, administering and applying the estimated price mechanism are inconsistent with Mexico's obligations under the WTO Agreement and constitute barriers to and restrictions on imports of Guatemalan products. Hence, these measures nullify or impair benefits accruing to Guatemala under the WTO Agreements, within the terms of Article XXIII:1(a) and (b) of the GATT 1994.

The Government of Guatemala reserves the right to present other allegations of fact and law in the course of the consultations.

We look forward to receiving the Mexican authorities' reply to this request and to setting a mutually convenient date and place for consultations.
