

**UNITED STATES – FINAL ANTI-DUMPING MEASURES
ON STAINLESS STEEL FROM MEXICO**

Understanding between Mexico and the United States
Regarding Procedures under Articles 21 and 22 of the DSU

The following communication, dated 18 May 2009, from the delegation of Mexico and the United States to the Chairman of the Dispute Settlement Body, is circulated at the request of these delegations.

Mexico and the United States would like to inform the Dispute Settlement Body of the attached "Agreement between Mexico and the United States Regarding Procedures under Articles 21 and 22 of the Dispute Settlement Understanding" with respect to the dispute *United States – Final Anti-Dumping Measures on Stainless Steel from Mexico* (WT/DS344).

We request that you please circulate the attached agreement to the Members of the Dispute Settlement Body.

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Agreement between Mexico and the United States
Regarding Procedures under Articles 21 and 22
of the Dispute Settlement Understanding

On 20 May 2008, the Dispute Settlement Body ("DSB") adopted its recommendations and rulings in the dispute *United States – Final Anti-Dumping Measures on Stainless Steel from Mexico* (WT/DS344). On 11 August 2008, Mexico requested that the reasonable period of time for implementation be determined through arbitration pursuant to Article 21.3(b) of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"). On 31 October 2008, the arbitration award was circulated to Members (WT/DS344/15). The arbitrator determined that the reasonable period of time for the United States to implement the DSB recommendations and rulings would be 11 months plus ten days, expiring on April 30, 2009.

The Parties have agreed on the following procedures for purposes of this dispute:

1. If Mexico deems it appropriate to invoke Article 21.5 of the DSU, Mexico will request that the United States enter into consultations with Mexico. The Parties agree to hold such consultations within 15 days from the date of receipt of the request.
2. After the 15-day period referenced in paragraph 1 has elapsed, Mexico may request the establishment of a panel pursuant to DSU Article 21.5 (the "compliance panel").
3. At the first DSB meeting at which Mexico's request for the establishment of a compliance panel appears as an item on the agenda, the United States will accept the establishment of that panel.
4. The Parties will cooperate to enable the compliance panel to circulate its report within 90 days of the panel's composition, excluding such time as the panel's work may be suspended pursuant to Article 12.12 of the DSU.
5. In case of an appeal of the compliance panel report, the Parties will cooperate to enable the Appellate Body to circulate its report within 90 days from the date of notification of the appeal to the DSB.
6. In the event that the DSB rules that a measure taken to comply does not exist or is inconsistent with a covered agreement, Mexico may request authorization to suspend concessions or other obligations in accordance with Article 22 of the DSU after the adoption by the DSB of its recommendations and rulings and may request negotiations with the United States with a view to developing mutually acceptable compensation pursuant to Article 22.2 of the DSU.
7. The United States shall not assert that Mexico is precluded from obtaining such DSB authorization on the grounds that the request was made outside the 30-day time-period specified in Article 22.6 of the DSU. This is without prejudice to the US right to have the matter referred to arbitration in accordance with Article 22.6 of the DSU.
8. If Mexico requests authorization to suspend concessions or other obligations pursuant to Article 22.2 of the DSU, and if the United States objects under Article 22.6 of the DSU to the level of suspension of concessions or other obligations and/or claims that the principles and procedures set forth in DSU Article 22.3 have not been followed, the matter will be referred to arbitration pursuant to DSU Article 22.6.
9. The Parties will cooperate to enable the arbitrator under Article 22.6 of the DSU to circulate its award within 60 days of the referral to arbitration.

10. The Parties will cooperate to facilitate the participation of the original panelists in the compliance panel and the Article 22.6 arbitration.

11. If any of the original panelists is not available for either the Article 21.5 compliance panel or the Article 22.6 arbitration, or both, the Parties will promptly consult on a replacement panelist or arbitrator, and either Party may request the Director-General of the WTO to appoint, as soon as possible, a replacement for the proceeding or proceedings in which such a replacement is required. For any such request where an original panelist is unavailable to serve on the compliance panel and the Article 22.6 arbitration, the Parties will request that in selecting a panelist for the compliance panel, the Director-General seek a person who will also be available to act in the Article 22.6 arbitration.

12. The Parties agree to continue to cooperate in all matters related to these agreed procedures and not to raise any procedural objection to any of the steps set out herein. If, during the application of these procedures, the Parties consider that a procedural aspect has not been properly addressed, they will endeavour to find a solution within the shortest time possible that will not affect the other agreed procedures.

13. These agreed procedures in no way prejudice other rights of either party to take any action or procedural step to protect its rights and interests, including recourse to the DSU.

Agreed in Geneva on 18 May 2009.

For Mexico

For the United States

Fernando de Mateo y Venturini
Ambassador

David P. Shark
Chargé d'affaires, a.i.
