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MEXICO – PROVISIONAL COUNTERVAILING MEASURES ON OLIVE OIL FROM THE EUROPEAN COMMUNITIES

Request for Consultations by the European Communities

The following communication, dated 18 August 2004, from the delegation of the European Communities to the delegation of Mexico and to the Chairperson of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

The European Communities hereby requests consultations with Mexico pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (the DSU), Article XXII of the General Agreement on Tariffs and Trade 1994 (GATT 1994), Article 30 of the Agreement on Subsidies and Countervailing Measures (*SCM Agreement*) and Article 19 of the *Agreement on Agriculture*, concerning the imposition of provisional countervailing measures on imports of olive oil originating in the European Communities by Resolution of 18 May 2004 published in Diario Oficial de la Federación of 10 June 2004.

The European Communities considers that the initiation of the above-mentioned countervailing duty investigation and the subsequent imposition of provisional measures are inconsistent with Mexico's obligations under *inter alia* Articles 10, 11 (in particular paragraphs 2, 3, 4, and 9) 15, 16 and 17 (in particular Article 17.1(a) and (b)) of the *SCM Agreement*, and Article 13 and/or Article 21.1 of the *Agreement on Agriculture*.

The inconsistencies include:

- the initiation of an investigation in the absence of sufficient evidence that a domestic industry is suffering injury as a result of subsidized imports, in violation of Article 11.2 of the *SCM Agreement* ;
- the failure by the Mexican authorities to review the accuracy and adequacy of the evidence provided in the application to determine whether there was sufficient evidence to initiate an investigation, in violation of Article 11.3 of the *SCM Agreement*;
- the failure to establish whether the application was made by or on behalf of the domestic industry of the like product, in violation of Article 11.4 of the *SCM Agreement*;
- the imposition of provisional countervailing measures despite the failure to correctly define the domestic industry, in violation of Articles 16 and 17.1 of the *SCM Agreement*;

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- the failure to reject the application and to terminate promptly the investigation as soon as the Mexican authorities should have been satisfied that there was insufficient evidence to initiate and/or proceed with the investigation, in violation of Article 11.9 of the *SCM Agreement*;
- the imposition of provisional countervailing measures following the conduct of an investigation that was not initiated in accordance with the provisions of Article 11 of the *SCM Agreement*, in violation of Article 17.1(a) of the *SCM Agreement*;
- the imposition of provisional countervailing measures following the conduct of an investigation that was not initiated in accordance with the provisions of the *SCM Agreement* and the *Agreement on Agriculture*, in violation of Article 10 of the *SCM Agreement*;
- the imposition of provisional countervailing measures despite the non-existence of material injury or material retardation, in violation of Articles 15 and 17.1(b) of the *SCM Agreement*, notably Article 15.4;
- the imposition of provisional countervailing measures despite the failure to establish a causal link between the allegedly subsidized imports and the alleged injury, in violation of Article 15.5 and 17.1(b) of the *SCM Agreement*;
- the initiation of a countervailing duty investigation on imports of an agricultural product (olive oil) outside the circumstances contemplated in Article 13(b)(i) of the *Agreement on Agriculture* and/or in violation of Article 21.1 of the *Agreement on Agriculture*;
- the imposition of provisional countervailing measures on imports of an agricultural product (olive oil) outside the circumstances contemplated in Article 13(b)(i) of the *Agreement on Agriculture* and/or in violation of Article 21.1 of the *Agreement on Agriculture*;

The European Communities reserves the right to raise additional claims and legal matters regarding the above-mentioned measures during the course of the consultations.

The European Communities looks forward to receiving the reply of the Government of Mexico to this request to setting a mutually convenient date for consultations.
