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**MEXICO – DEFINITIVE COUNTERVAILING MEASURES ON OLIVE OIL  
FROM THE EUROPEAN COMMUNITIES**

Request for Consultations by the European Communities

The following communication, dated 31 March 2006, from the delegation of the European Communities 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.

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The European Communities hereby requests consultations with 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 30 of the Agreement on Subsidies and Countervailing Measures (*SCM Agreement*) and Article 19 of the *Agreement on Agriculture*, concerning the imposition of definitive countervailing measures on imports of olive oil originating in the European Communities by the "Resolución final de la investigación por subvención de precios sobre las importaciones de aceite de oliva" published in the Diario Oficial de la Federación of 1 August 2005.

The European Communities considers that the initiation and conduct of the investigations, as well as the imposition of the definitive countervailing measures are inconsistent with Mexico's obligations under *inter alia* Article VI (in particular VI:3 and VI:6) of the *GATT 1994*, Articles 1, 10, 11 (in particular paragraphs 2 3, 4, 6, 9 and 11), 12 (in particular paragraphs 3 and 4), 13, 14, 15, 16, 19, 22 and 32 of the *SCM Agreement* and Articles 13(b)(i) and 21.1 of the *Agreement on Agriculture*.

The inconsistencies include, but are not limited to, the following:

- a failure to respect Article 21.1 of the *Agreement on Agriculture*;
- the initiation of an investigation on the basis of an application which did not include sufficient evidence and the failure by the Mexican authorities to review the accuracy and adequacy of the evidence provided in the application to determine whether the evidence was sufficient to justify the initiation of an investigation, in violation of Article 11.2 and 11.3 of the *SCM Agreement*;
- the initiation of an investigation in the absence of a determination by the Mexican authorities that the application was made by or on behalf of the domestic industry, in violation of Articles 11.4 and 16 of the *SCM Agreement*;

- the decision to initiate an investigation on a broader injury basis than the one established in the application and without having sufficient evidence of the existence of material injury or threat thereof or causal link to justify the initiation, in violation of Article 11.6 of the *SCM Agreement*;
- the failure to reject the application and to terminate promptly the investigation as soon as the Mexican authorities were satisfied that there was not sufficient evidence of either subsidization or injury to justify proceeding with the case, in violation of Article 11.9 of the *SCM Agreement*;
- the failure to conclude the investigation within one year, and in no case more than 18 months, after its initiation, in violation of Article 11.11 of the *SCM Agreement*;
- the failure by the Mexican authorities to include adequate information of the factors on which the allegation of injury was based in its public notice of the initiation of an investigation in violation of Articles 12.4.1, 12.4.2 and 22.2 (iv) of the *SCM Agreement*;
- the failure to grant the opportunity for consultations before the initiation of the investigation with the aim of clarifying the situation as to matters referred to in paragraph 2 of Article 11 of the *SCM Agreement* and arriving at a mutually agreed solution, in violation of Article 13.1 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*;
- the imposition of countervailing duties following an investigation that was not initiated and conducted in accordance with the provisions of Article VI of the *GATT 1994*, the *SCM Agreement* and the *Agreement on Agriculture*, in violation of Article 10 of the *SCM Agreement*;
- the failure of the Mexican authorities to properly determine the existence of subsidisation, *inter alia*, by failing to evaluate the existence of any "pass-through" of any benefit, in violation of Articles 1.1(b), 10 and 32.1 of the *SCM Agreement*;
- the failure to provide all relevant information on the matters of fact and law and reasons which have led to the imposition of final measures, in violation of Articles 12.3, 12.4.1, 12.4.2 and 22 (*inter alia* paragraph 5) of the *SCM Agreement*;
- the failure to calculate the benefit to the recipient conferred pursuant to paragraph 1 of Article 1 of the *SCM Agreement*, in violation of Article 14 of the *SCM Agreement*;
- the failure to explain the method of calculation and its application to each particular case in a transparent and adequate way, in violation of Article 14 of the *SCM Agreement*;
- the imposition of countervailing measures despite the failure to correctly define the domestic industry, in violation of Article VI:6 of the *GATT 1994* and Articles 15.4, 15.5 and 16 of the *SCM Agreement*;

- the imposition of countervailing measures despite the failure to examine any known factors other than the alleged subsidized imports which were causing injury to the domestic industry , in violation of Article 15.5 of the *SCM Agreement*;
- the imposition of countervailing measures despite the failure to determine that the effect of the alleged subsidization was such as to cause material injury to an established domestic industry, in violation of Article VI:6 of the *GATT 1994* and Article 15 of the *SCM Agreement*, notably Article 15.1 and 15.4;
- the imposition of countervailing duties which are levied in excess of the amount of the alleged subsidy found to exist, in violation of Article VI:3 of *GATT 1994*, Article 19.4 and footnote 36 of the *SCM Agreement*;

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 a reply from the Government of Mexico to this request. The European Communities is ready to consider with Mexico a mutually convenient date for consultations in Geneva.

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