

WORLD TRADE ORGANIZATION

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UNITED STATES – CERTAIN COUNTRY OF ORIGIN LABELLING REQUIREMENTS

Request for Consultations by Mexico

Addendum

The following communication, dated 7 May 2009, from the delegation of Mexico to the delegation of the United States and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

The Government of Mexico hereby requests consultations with the Government of the United States pursuant to Articles 1 and 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (DSU), Article XXII of the *General Agreement on Tariffs and Trade 1994* (GATT 1994), Article 14 of the *Agreement on Technical Barriers to Trade* (TBT Agreement), Article 11 of the *Agreement on the Application of Sanitary and Phytosanitary Measures* (SPS Agreement), and Article 7 of the *Agreement on Rules of Origin*, concerning measures affecting country of origin labelling rules applied by the Government of the United States pursuant to or in connection with the mandatory country of origin labelling (COOL) provisions in the *Agricultural Marketing Act* of 1946, as amended by the *Farm, Security and Rural Investment Act of 2002* and the *Food, Conservation and Energy Act of 2008*, and as implemented through the regulations published as 7 CFR Parts 60 and 65.

This request supplements Mexico's prior request for consultations dated 17 December 2008 (WT/DS386/1) concerning the COOL measures, as a result of which consultations were held on 27 February 2009.

This supplement request concerns related amendments and measures adopted by the United States after Mexico's initial request for consultations: *Mandatory Country of Origin Labelling of Beef, Pork, Lamb, Chicken, Goat Meat, Wild and Farm-Raised Fish and Shellfish, Perishable Agricultural Commodities, Peanuts, Pecans, Ginseng, and Macadamia Nuts – Final Rule* 74 Fed. Reg. 2658 (15 January 2009); Letter from Thomas Vilsack, Secretary of Agriculture (United States Department of Agriculture, USDA) to Industry Representatives (20 February 2009), cited in a USDA News Release: Release No. 0045.09, "Vilsack Announces Implementation of Country of Origin Labeling Law" (20 February 2009); and in public statements made by Secretary Vilsack, related directives and administrative guidance.

This request also includes any modifications or amendments to the COOL measures, including any further implementing guidance or other documents that may be published in relation to such measures.

The above measures appear to be inconsistent with the United States' obligations under the WTO Agreement, including:

- (i) Articles III, IX, and X of the GATT 1994;
- (ii) Articles 2 and 12 of the TBT Agreement, or, in the alternative, Articles 2, 5 and 7 of the SPS Agreement; and
- (iii) Article 2 of the Agreement on Rules of Origin.

These measures appear to nullify or impair the benefits accruing to Mexico under the above-mentioned Agreements. Moreover, these measures appear to nullify or impair the benefits accruing to Mexico in the sense of Article XXIII:1(b) of the GATT 1994.

Mexico reserves the right to raise further factual and legal claims in the course of the consultations.

We look forward to receiving the US Government's response to this request in order to set a mutually convenient date for consultations.
