



**UNITED STATES – MEASURES CONCERNING THE IMPORTATION, MARKETING AND  
SALE OF TUNA AND TUNA PRODUCTS**

**RECOURSE TO ARTICLE 21.5 OF THE DSU BY MEXICO**

**COMMUNICATION FROM THE APPELLATE BODY**

The following communication, dated 3 August 2015, from the Chair of the Appellate Body addressed to the Chair of the Dispute Settlement Body, is circulated to Members in accordance with Article 17.5 of the Understanding on Rules and Procedures Governing the Settlement of Disputes.

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I am writing to you pursuant to Article 17.5 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), which stipulates that, as a general rule, the Appellate Body will circulate its report no later than 60 days after the appellant has formally notified the Dispute Settlement Body (DSB) of its decision to appeal. Article 17.5 states, furthermore, that, when the Appellate Body considers that it cannot provide its report within 60 days, it shall inform the DSB in writing of the reasons for the delay together with an estimate of the period within which it will submit its report.

The United States notified the DSB on 5 June 2015 of its decision to appeal certain issues of law covered in the Panel Report and legal interpretations developed by the Panel in this case, with the result that the 60-day period expires on Tuesday, 4 August 2015. On 10 June 2015, Mexico also filed a notice of appeal in this case. For the reasons expressed below, the Appellate Body will not be able to circulate its report by 4 August 2015, or within the 90-day timeframe provided for in the last sentence of Article 17.5 of the DSU.

The Appellate Body faces a substantial workload this year, with several appellate proceedings running in parallel, and often with overlap in the composition of the Divisions hearing the different appeals. In addition, in response to a request from Mexico, the Division hearing this appeal issued a procedural ruling to reschedule the oral hearing dates to 21-22 September 2015. Due to the scheduling issues arising from these circumstances, the number and complexity of the issues raised in this and concurrent appellate proceedings, and the shortage of staff in the Appellate Body Secretariat, the Appellate Body will not be able to circulate its report in this dispute by the end of the 60-day period, or within the 90-day timeframe provided for in Article 17.5 of the DSU. We estimate that the Appellate Body report in this appeal will be circulated to WTO Members no later than Friday, 20 November 2015.

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