

**MEXICO – ANTI-DUMPING INVESTIGATION OF HIGH FRUCTOSE  
CORN SYRUP (HFCS) FROM THE UNITED STATES**

Recourse to Article 21.5 of the DSU by the United States

Notification of an Appeal by Mexico  
under paragraph 4 of Article 16 of the Understanding on Rules  
and Procedures Governing the Settlement of Disputes

The following notification, dated 24 July 2001, sent by the Permanent Mission of Mexico to the Dispute Settlement Body ("DSB"), is circulated to Members. This notification also constitutes the Notice of Appeal, filed on the same day with the Appellate Body, pursuant to the *Working Procedures for Appellate Review*.

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Pursuant to Article 16.4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) and Rule 20 of the Working Procedures for Appellate Review, Mexico wishes to formally notify the Appellate Body of the World Trade Organization of its decision to appeal against certain points of law arising in the report of the Panel that examined the case *Mexico – Anti-Dumping Investigation of High Fructose Corn Syrup (HFCS) from the United States – Recourse to Article 21.5 of the DSU by the United States* (WT/DS132/RW), as well as certain legal interpretations formulated by the said Panel.

In particular, Mexico is requesting the Appellate Body to examine and reverse the Panel's conclusions that Mexico's imposition of definitive anti-dumping duties on imports of HFCS from the United States, on the basis of SECOFI's redetermination, is inconsistent with the requirements of the Anti-Dumping Agreement, in that Mexico's inadequate consideration of the impact of dumped imports on the domestic industry, and its inadequate consideration of the potential effect of the alleged restraint agreement in its determination of likelihood of substantially increased importation, are not consistent with the provisions of Article 3.1, 3.4, 3.7 and 3.7(i) of the Anti-Dumping Agreement, and that Mexico therefore failed to implement the recommendation of the original Panel and of the DSB to bring its measure into conformity with its obligations under the Anti-Dumping Agreement; and that it has nullified or impaired benefits accruing to the United States under that Agreement. These conclusions are based on erroneous matters of law and legal interpretations of various provisions of the Anti-Dumping Agreement and the DSU, all of which are related to Article 21.5 of the DSU, including the following:

Firstly, the Panel erred and violated its obligations under Articles 3.4, 7.2, 12.7 and 19 of the DSU by refraining from examining the complaints that the United States was hasty in resorting to the Dispute Settlement Body without exercising its judgement as to whether action under those procedures would be fruitful, as required by Article 3.7 of the Dispute Settlement Understanding, and without consulting Mexico in respect of the challenged measure, as well as the failure of the United States to comply with Article 6.2 of the DSU by not indicating in its request for the establishment of a panel whether consultations had been held. Mexico considers that this dispute was not properly

submitted to the Panel and, therefore, that the said Panel had no authority to express its findings and conclusions.

Secondly, the Panel erred in its finding on the likelihood of increased imports, which it based on an erroneous interpretation and application of Articles 3.1, 3.4, 3.7, 17.5 and 17.6 of the Anti-Dumping Agreement.

Thirdly, the Panel erred in its finding on the probable impact of imports on the domestic industry, since that was based on its finding on the likelihood of increased imports, which, in its turn, is based on an erroneous interpretation and application of Articles 3.1, 3.4, 3.7, 17.5 and 17.6 of the Anti-Dumping Agreement.

Fourthly, the Panel failed to fulfil its obligation under Articles 3.4, 12.7 and 19 of the DSU through its failure to set out in its report the findings of fact, the applicability of relevant provisions and the basic rationale behind any findings and recommendations with regard to Articles 3.1 and 3.4 of the Anti-Dumping Agreement.

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