

**UNITED STATES – CONTINUED DUMPING AND
SUBSIDY OFFSET ACT OF 2000**

Recourse by Mexico to Article 22 of the DSU

The following communication, dated 15 January 2004, from the delegation of Mexico to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 22 of the DSU.

On 27 January 2003, the Dispute Settlement Body (DSB) adopted the Report of the Panel and the Report of the Appellate Body concerning the Continued Dumping and Subsidy Offset Act of 2000 (CDSOA). These reports contained the following rulings:

- The CDSOA is a non-permissible specific action against dumping or subsidization contrary to Article 18.1 of the Anti-Dumping Agreement and Article 32.1 of the SCM Agreement.
- The CDSOA is inconsistent with certain provisions of the Anti-Dumping and SCM Agreements, and consequently, the United States failed to comply with Article 18.4 of the Anti-Dumping Agreement, Article 32.5 of the SCM Agreement and Article XVI:4 of the WTO Agreement.
- Since the CDSOA is inconsistent with provisions of the Anti-Dumping Agreement and the SCM Agreement, it nullifies or impairs benefits accruing to the Complaining Parties under those agreements.

An arbitration pursuant to Article 21.3(c) of the DSU determined that the reasonable period of time for implementation would expire on 27 December 2003. The United States has failed to implement the recommendations and rulings of the DSB, as can be concluded from its latest status report on implementation of the DSB recommendations and rulings of 12 January 2004.

Consequently, Mexico requests the DSB for authorization to suspend the application to the United States of obligations in the trade in goods sector, in conformity with Article 22 of the DSU.

The amount of the suspension will be determined each year according to the following calculation, based on the offset payments made to the affected United States producers under the CDSOA during the immediately preceding year:

- (1) The offset payments attributed to anti-dumping duties collected and assessed on products from Mexico, plus

- (2) A proportionate amount of the balance of the total offset payments minus the offset payments on products from other Members that are authorized by the DSB to suspend concessions or other obligations in this dispute.

Thus, each year, as soon as the amount of the offset payments that have been made is known, Mexico will notify the details concerning the corresponding suspension of obligations.

Finally, Mexico requests that this matter be included in the agenda of the DSB meeting of 26 January 2004.
