

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

Recourse by the United States to Article 21.5 of the DSU

The following communication, dated 12 October 2000, from the Permanent Mission of the United States to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 21.5 of the DSU.

On 24 February 2000, the Dispute Settlement Body (DSB) adopted the report of the Panel in "Mexico - Anti-dumping Investigation of High Fructose Corn Syrup (HFCS) from the United States" (WT/DS132/R). The Panel report concluded that Mexico's imposition of the definitive anti-dumping duties on imports of high fructose corn syrup, grades 42 and 55, from the United States was inconsistent with the requirements of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Anti-dumping Agreement) and recommended that Mexico bring its measure into conformity with its obligations under the Anti-dumping Agreement.

On 20 September 2000, the Government of Mexico published a "final resolution" in which it stated that it had revised the original final resolution imposing definitive anti-dumping duties on imports of high fructose corn syrup, grades 42 and 55, from the United States to comply with the Panel report's conclusions and recommendations. Mexico determined to repay provisional duties on entries and guarantees granted for the payment of provisional anti-dumping duties, with interest, for the period 26 June 1997 to 23 January 1998. Mexico also "ratified its conclusion that during the period under investigation, there was a threat of harm to the domestic sugar industry as a consequence of imports of high fructose corn syrup under price discriminatory conditions originating from the United States of America". The revised final resolution confirmed "the final offsetting duties established during the antidumping investigation".

The United States believes that the measures taken by Mexico to comply with the recommendations and rulings of the DSB are not consistent with the Anti-dumping Agreement. In particular, Mexico's redetermination of a threat of material injury, including its consideration of the impact of dumped imports on the Mexican sugar industry, its consideration of the potential effect of the alleged restraint agreement in its determination of a likelihood of substantially increased importation, and its explanation of the findings and conclusions it reached on all material issues of fact and law, fails to comply with the recommendations and rulings of the DSB and is inconsistent with Articles 3.1, 3.2, 3.4, 3.5, 3.7, 12.2, and 12.2.2 of the Anti-dumping Agreement.

Accordingly, because "there is a disagreement as to the existence or consistency with a covered agreement of measures taken to comply with the recommendations and rulings" of the DSB between the United States and Mexico, within the terms of Article 21.5 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), the United States seeks recourse to

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Article 21.5 of the DSU in this matter. The United States requests that the DSB refer the matter to the original panel, if possible, pursuant to Article 21.5 of the DSU.
