

## ANNEX E

### REQUEST FOR THE ESTABLISHMENT OF A PANEL

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## ANNEX E-1

### REQUEST FOR THE ESTABLISHMENT OF A PANEL

# WORLD TRADE ORGANIZATION

WT/DS341/2  
8 December 2006

(06-5907)

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### MEXICO – DEFINITIVE COUNTERVAILING MEASURES ON OLIVE OIL FROM THE EUROPEAN COMMUNITIES

#### Request for the Establishment of a Panel by the European Communities

The following communication, dated 7 December 2006, from the delegation of the European Communities to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

The European Communities hereby requests the establishment of a panel pursuant to Articles 4.7 and 6 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU") and Article XXIII of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994") and Articles 4 and 30 of the *Agreement on Subsidies and Countervailing Measures* ("SCM Agreement") and Article 19 of the *Agreement on Agriculture*.

This request concerns Mexico's imposition of definitive countervailing measures on imports of olive oil originating in the European Communities by the "Resolución final de la investigación por subvención de precios sobre las importaciones de aceite de oliva" published in the Diario Oficial de la Federación of 1 August 2005.

The European Communities considers that the initiation and conduct of the investigations, as well as the imposition of the definitive countervailing measures are inconsistent with Mexico's obligations under *inter alia* Article VI (in particular VI:6) of the *GATT 1994*, Articles 1, 11 (in particular paragraphs 2, 4 and 11), 12 (in particular paragraphs 4 and 8), 13, 14, 15, 16 and 22 of the *SCM Agreement* and Articles 13(b)(i) and 21.1 of the *Agreement on Agriculture*.

Specifically, this request concerns the imposition of countervailing measures despite:

1. the initiation of an investigation in the absence of a determination by the Mexican authorities that the application was made by or on behalf of the domestic industry, in violation of Articles 11.4 and 16 of the *SCM Agreement*;

2. the failure to conclude the investigation within one year, and in no case more than 18 months, after its initiation, in violation of Article 11.11 of the *SCM Agreement*;
3. the failure by the Mexican authorities to require interested parties to provide non-confidential summaries of confidential information in sufficient detail to permit a reasonable understanding of the substance of the information in violation of Article 12.4.1 of the *SCM Agreement*;
4. the failure of the Mexican authorities to properly inform the interested parties and to provide reasonable and adequate explanation on the existence of subsidisation, notably as regards pass-through of any benefit, in violation of Articles 12.8, 22.3 and 22.5 of the of the *SCM Agreement*;
5. the failure to grant the opportunity for consultations before the initiation of the investigation with the aim of clarifying the situation as to matters referred to in paragraph 2 of Article 11 of the *SCM Agreement* and arriving at a mutually agreed solution, in violation of Article 13.1 of the *SCM Agreement*;
6. the failure to calculate the benefit conferred on the recipient pursuant to paragraph 1 of Article 1 of the *SCM Agreement* and to apply the method used to each particular case in a transparent way which is adequately explained, in violation of Article 14 of the *SCM Agreement*;
7. the failure to correctly define the domestic industry, in violation of Article VI:6 of the *GATT 1994* and Articles 15.4, 15.5 and 16 of the *SCM Agreement*;
8. the failure to make a determination of injury based on positive evidence involving an examination of all relevant economic factors and indices having a bearing on the state of the industry and to provide reasoned and adequate explanation, in violation of Article VI:6 of the *GATT 1994* and Articles 15.1 and 15.4 of the *SCM Agreement*;
9. the failure to examine any known factors other than the alleged subsidized imports which were causing injury to the domestic industry, in violation of Article 15.5 of the *SCM Agreement*;
10. the initiation of a countervailing duty investigation on imports of an agricultural product (olive oil) outside the circumstances contemplated in Article 13(b)(i) of the *Agreement on Agriculture* and in violation of Article 21.1 of the *Agreement on Agriculture*;

On 31 March 2006, the European Communities requested consultations with Mexico on the above-mentioned with a view to reaching a mutually satisfactory solution of the matter. The request was circulated in document WT/DS341/1 dated 4 April 2006. The consultations were held on 5 May 2006. Unfortunately, they have not led to a satisfactory resolution of the matter.

Therefore, the European Communities requests that a panel be established, with standard terms of reference under Article 7 paragraph 1 of the DSU, to consider the above complaint with a view to finding that Mexico's measures nullify or impair the EC's benefits in respect of Mexico's obligations under the above cited Articles.

The European Communities asks that this request be placed on the agenda for the meeting of the Dispute Settlement Body to be held on 19 December.

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