

VIII. CONCLUSIONS AND RECOMMENDATIONS

8.1 In the light of our findings above concerning the determination of injury by Economía in the investigation on imports of long-grain white rice from the United States, we conclude:

- (a) that Mexico acted inconsistently with Articles 3.1, 3.2, 3.4 and 3.5 of the AD Agreement by choosing to base its injury determination on a period of investigation which ended more than fifteen months before the initiation of the investigation. We apply judicial economy and do not make any findings on the US claim of violation of Article VI:2 of GATT 1994 and Article 1 of the AD Agreement;
- (b) that Mexico acted inconsistently with Articles 3.1 and 3.5 of the AD Agreement by limiting its injury analysis to only six months of the years 1997, 1998, and 1999. We apply judicial economy and do not make any findings on the US claims of violation of Articles 1 and 6.2 of the AD Agreement;
- (c) that Mexico acted inconsistently with Article 3.1 and 3.2 of the AD Agreement by failing to conduct an objective examination based on positive evidence of the price effects and volume of dumped imports as part of its injury analysis. We apply judicial economy and do not make any findings on the US claims of violation of Article 6.8 and Annex II of the AD Agreement.

8.2 Having reached the conclusions set forth above that the injury determination is inconsistent with Articles 3.1, 3.2, 3.4 and 3.5 of the AD Agreement, we apply judicial economy and do not rule on the US claims that:

- (a) Economía's failure to objectively consider whether there was a significant increase in the volume of dumped imports or whether the dumped imports had a significant effect on prices is inconsistent with Mexico's obligations under Articles 3.1 and 3.2 of the AD Agreement;
- (b) Economía's failure to conduct an objective analysis of the relevant economic factors is inconsistent with Mexico's obligations under Articles 3.1 and 3.4 of the AD Agreement;
- (c) Economía's inclusion of non-dumped imports in its evaluation of volume, price effects, and the impact of the dumped imports on the domestic industry is inconsistent with Mexico's obligations under Articles 3.1, 3.2, and 3.5 of the AD Agreement;
- (d) Economía's failure to provide in sufficient detail the findings and conclusions reached on all issues of fact and law with respect to its determination of injury is inconsistent with Mexico's obligations under Article 12.2 of the AD Agreement.

8.3 In the light of the above findings concerning the dumping margin determination by Economía in the investigation on imports of long-grain white rice from the United States, we conclude:

- (a) that Mexico acted inconsistently with Article 5.8 of the AD Agreement by not terminating the investigation on two US exporters which the authority found to have exported at undumped prices and by not excluding these two exporters from the application of the definitive anti-dumping measure;
- (b) that Mexico acted inconsistently with Article 6.8 and paragraph 7 of Annex II of the AD Agreement in its application of a facts available-based dumping margin to the non-shipping exporter Producers Rice. We apply judicial economy and do not make any findings on the US claims of violation of Articles 6.2, 6.4, and 9.5 of the AD Agreement, and paragraphs 3, 5 and 6 of Annex II;
- (c) that Mexico acted inconsistently with Articles 6.1, 6.8, paragraph 1 of Annex II, and Articles 6.10 and 12.1 of the AD Agreement in its application of a facts available-based dumping margin to the US producers and exporters that it did not investigate. We apply judicial economy and do not make any findings on the US claims of violation of Articles 6.6, 9.4, 9.5 and paragraph 7 of Annex II of the AD Agreement.

8.4 Having reached the conclusions set forth above that Economía's dumping margin determination is inconsistent with Articles 5.8, 6.1, 6.8, 6.10 and 12.1 of the AD Agreement, we apply judicial economy and do not rule on the US claims that:

- (a) Economía's failure to provide sufficient information on the findings and conclusions of fact and law and the reasons that led to the imposition of the adverse facts available-based margin on Producers Rice and the unexamined US exporters and producers is inconsistent with Mexico's obligations under Article 12.2 of the AD Agreement;
- (b) Economía's application of an adverse facts available-based margin to Producers Rice and the unexamined US exporters and producers is inconsistent with Mexico's obligations under Articles 1 and 9.3 of the AD Agreement;
- (c) Economía's levying of an anti-dumping duty greater than the margin of dumping is inconsistent with Mexico's obligations under Article VI:2 of GATT 1994.

8.5 In light of our findings above on the US challenges against Mexico's law as such, we conclude:

- (a) that Article 53 of Mexico's Foreign Trade Act is inconsistent as such with Article 6.1.1 of the AD Agreement and Article 12.1.1 of the SCM Agreement;
- (b) that Article 64 of Mexico's Foreign Trade Act is inconsistent as such with Articles 6.8 and paragraphs 1, 3, 5 and 7 of Annex II of the AD Agreement, and 12.7 of the SCM Agreement. We apply judicial economy and do not make any findings on the US claims of violation of Articles 9.3, 9.4, and 9.5 of the AD Agreement, and Article 19.3 of the SCM Agreement;
- (c) that Article 68 of Mexico's Foreign Trade Act is inconsistent as such with Articles 5.8, 9.3, and 11.2 of the AD Agreement and Articles 11.9 and 21.2 of the SCM Agreement;
- (d) that Article 89D of Mexico's Foreign Trade Act is inconsistent as such with Article 9.5 of the AD Agreement and Article 19.3 of the SCM Agreement;

- (e) that Article 93V of Mexico's Foreign Trade Act is inconsistent as such with Article 18.1 of the AD Agreement and Article 32.1 of the SCM Agreement; and
- (f) that Articles 68 and 97 of Mexico's Foreign Trade Act are inconsistent as such with Articles 9.3, and 11.2 of the AD Agreement, and Article 21.2 of the SCM Agreement, but that the United States failed to make a *prima facie* case that Article 366 of the FCCP is inconsistent with Articles 9.3, 9.5 and 11.2 of the AD Agreement and 19.3 and 21.2 of the SCM Agreement, and also that the United States failed to make a *prima facie* case of violation by the challenged provisions of the Act of Articles 9.5 of the AD Agreement and 19.3 of the SCM Agreement.

8.6 Under Article 3.8 of the DSU, in cases where there is infringement of the obligations assumed under a covered agreement, the action is considered *prima facie* to constitute a case of nullification or impairment of benefits under that agreement. Accordingly, we conclude that to the extent Mexico has acted inconsistently with the provisions of the AD Agreement and the SCM Agreement, it has nullified or impaired benefits accruing to the United States under those Agreements.

8.7 We therefore recommend that the Dispute Settlement Body request Mexico to bring its measures into conformity with its obligations under the AD Agreement and the SCM Agreement.
