MEXICO – STEEL PIPES AND TUBES
(DS331)

1. MEASURE AND PRODUCT AT ISSUE

- **Measure at issue**: The definitive anti-dumping duties imposed by Mexico on imports of steel pipes and tubes from Guatemala and the investigation leading thereto.
- **Product at issue**: Various steel pipes and tubes.

2. SUMMARY OF KEY PANEL FINDINGS

A. The Panel found that the Investigating Authority "IA" acted inconsistently with Mexico's obligations under:

- **ADA Arts. 5.3 and 5.8 (initiation and subsequent investigation)**: in its assessment of the sufficiency of evidence of dumping and injury to justify the initiation of the investigation and, consequently, its failure to reject the application in the absence of sufficient evidence to justify proceeding with the investigation.

- **ADA Arts. 3.1, 3.2, 3.4 and 3.5 (injury determination)**: (i) in relying, without sufficient justification, on injury data limited to three six-month periods over three consecutive years in its determination of injury and causation; (ii) by failing to adequately analyse and properly attribute injury to the domestic industry caused by a decrease in exports; and (iii) to conduct an objective examination on the basis of positive evidence of injury to the domestic industry (as defined in Art. 4.1) by failing to gather and analyse representative and consistent data pertaining to the domestic industry as a whole, in particular, data concerning the financial indicators.

- **ADA Arts. 3.1 and 3.2 (injury determination)**: to conduct an objective examination of positive evidence by using a methodology premised on a limited sample and unsubstantiated assumptions in estimating the volume of imports form sources other than Guatemala.

- **ADA Art. 6.8 and Annex II (evidence – facts available)**, in particular, (i) Art. 6.8 and paras. 3 and 5 of Annex II in deciding to reject the entirety of the data that the exporter had submitted and relying instead on facts available; (ii): Art. 6.8 and para. 6 of Annex II by failing to inform the exporter that its data were being rejected and the reasons therefore, and by failing to provide the exporter with an opportunity to submit further explanations; and (iii) para. 7 of Annex II because in applying as facts available the normal value evidence provided by the applicant and used for the initiation of the investigation, the IA failed to use "special circumspection".

B. The Panel found that Guatemala failed to establish that the IA acted inconsistently with Mexico's obligations under:

- **ADA Arts. 3.1, 3.2, 3.4 or 3.5 (injury determination)**: (i) by relying on data from a period that terminated eight months prior to the initiation and two years prior to the imposition of the definitive measures; (ii) in its consideration of costs for the injury and causation analysis;

- **ADA Arts. 3.1, 3.2, 3.4, 3.5 or 5.4 (injury determination)** concerning the data used for its injury analysis in light of the changes of the product definition to include 4”-6” product and certain structural tubing;

- **ADA Art. 6.5 or para. 6.5.1 (evidence – confidential information)**: in its treatment of confidential information in this case. It also found that Guatemala failed to make a prima facie case of inconsistency with Arts. 3.1 and 3.2 concerning the price effects of imports from Guatemala.

3. OTHER ISSUES

- The Panel applied judicial economy with regard to some of Guatemala's claims.
- The Panel suggested that Mexico revoke the anti-dumping measures.

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1 Mexico – Anti-Dumping Duties on Steel Pipes and Tubes from Guatemala