1. MEASURE AND PRODUCT AT ISSUE

- **Measure at issue**: Countervailing duties on olive oil from the European Communities.
- **Product at issue**: Olive oil from the European Communities.

2. SUMMARY OF KEY PANEL FINDINGS

- **ASCM Art. 11.11 (duration of investigation)**: Economía (the investigating authority) acted inconsistently with Art. 11.11, because the investigation exceeded the 18-month maximum time-limit set forth therein.

- **ASCM Art.12.4 (evidence – disclosure of information)**: Economía failed to comply with the requirement in Art. 12.4.1 to require interested parties to submit non-confidential summaries of confidential information, or in exceptional circumstances, to explain why summarization is impossible. Blanket statements are insufficient for such explanations.

- **ASCM Art. 12.8 (evidence – disclosure of essential facts)**: The European Communities did not establish that Economía failed to disclose the essential facts as required by Art. 12.8. The European Communities did not identify any essential facts (i.e., those on which the determinations of injury, subsidization, or causation were based) that were not disclosed in sufficient time for interested parties to defend their interests.

- **ASCM Art. 13.1 (consultations – invitation prior to initiation of investigation)**: The European Communities did not establish that Mexico infringed the requirement in Art. 13.1 to invite the exporting Members for consultations prior to initiation. Economía issued the invitation prior to initiation, and the obligation is to invite the Member prior to initiation, not to hold consultations, and not to issue the invitation in sufficient time to allow consultations to be held prior to initiation.

- **ASCM Arts. 1 (definition of a subsidy) and 14 (calculation of amount of subsidy)**: Arts. 1 or 14 do not contain the requirement to conduct a “pass-through” analysis when a subsidized product is an input to the investigated product and the producers of the respective products are unrelated European Communities. Even if there were such a requirement in these provisions, Economía’s conclusion was reasonable that under the facts of the investigation, no pass-through analysis was required.

- **ASCM Art. 16.1 (definition of domestic industry)**: The definition of “domestic industry” set forth in Art. 16.1 does not require that the applicant be producing at or near the date of filing its application or during the period of investigation for subsidization due restraint and Economía’s conclusion that the applicant was the “domestic industry” was reasonable. The European Communities thus did not establish that the initiation and the injury determination were flawed because there was no domestic industry.

- **AA Art. 13(b): (i) (due restraint)**: Art. 13 does not prohibit initiation or imposition of countervailing measures premised on “material retardation”, and even if such a prohibition existed, in fact this was not the basis of the initiation or the injury determination. The European Communities also failed to establish that Economía did not exercise due restraint in initiating the investigation.

3. OTHER ISSUES

- Consistent with prior panels (*Mexico – Pipe and Tubes, Mexico – Anti-dumping Measures on Rice*), the Panel found that Mexico’s use of three consecutive nine-month periods for the injury analysis was inconsistent with the obligation in ASCM Art. 15.1 to make an objective examination based on positive evidence.

- The Panel also found that Economía had provided reasoned and adequate explanations as to why it concluded that there were no domestic producers other than the applicant and no factors other than the subsidized imports which could be causing injury.