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OFFICE OF THE UNITED TRADE REPRESENTATIVE

[Docket No. WTO/DS-282]

WTO Dispute Settlement Proceeding Regarding Antidumping Measures on Oil Country Tubular Goods From Mexico

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representatives ("USTR") is providing notice that on February 18, 2003, the United States received from Mexico a request for consultations under the Marrakesh Agreement Establishing the World Trade Organization ("WTO Agreement") regarding various measures relating to the antidumping duty order on oil country tubular goods ("OCTG") from Mexico. Mexico alleges that determinations made by U.S. authorities concerning this product, and certain related matters, are inconsistent with Articles 1, 2, 3, 6, 11, and 18 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("AD Agreement"), Articles VI and X of the General Agreement on Tariffs and Trade 1994 ("GATT 1994"), and Article XVI:4 of the WTO Agreement. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before April 25, 2003, to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically, to FR0069@ustr.gov, or (ii) by mail, to Sandy McKinzy, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, Attn: Mexico OCTG Dispute, with a confirmation copy sent electronically to

the address above, or by fax to (202) 395-3640, in accordance with the requirements for submission set out below.

FOR FURTHER INFORMATION CONTACT:

William D. Hunter, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, (202) 395-3582.

SUPPLEMENTARY INFORMATION:

Section 127(b) of the Uruguay Round Agreements Act ("URAA") (19 U.S.C. 3537(b)(1) requires that notice and opportunity for comment be provided after the United States submit or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, but in an effort to provide additional opportunity for comment, USTR is providing notice that consultations have been requested pursuant to the WTO Dispute Settlement Understanding ("DSU"). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

Major Issues Raised by Mexico

With respect to the measures at issue, Mexico's request for consultations refers to the following:

- The final sunset review determinations on OCTG from Mexico by the U.S. Department of Commerce ("Commerce") (66 FR 14131 (March 9, 2001), and the U.S. International Trade Commission ("ITC") (66 FR 35997 (July 10, 2001)), as well as the resulting continuation by Commerce of the antidumping duty order on OCTG from Mexico (66 FR 38630 (July 25, 2001));

- The final results of the fourth administrative review by Committee of the antidumping duty order on OCTG from Mexico, such review covering the time period from August 1, 1998 to July 31, 1999 (66 FR 15832 (March 21, 2001));

- Sections 751 and 752 of the Tariff Act of 1930;

- The URAA Statement of Administrative Action;

- Commerce's Sunset Policy Bulletin (63 FR 18871 (April 16, 1998));

- Commerce's sunset review regulations, 19 CFR 351.218;

- The ITC's sunset review regulations, 19 CFR 207.60-69; and

- Portions of Commerce's regulations concerning administrative reviews, including 19 CFR 351.213, 351.221, and 351.222.

With respect to the claims of WTO-inconsistency, Mexico's request for consultations refers to the following:

- With regard to the sunset review conducted by Commerce:

- Commerce's misapplication of the standard of "would likely be to lead to"; and

- Commerce's reliance on a presumption in favor of maintaining the anti-dumping measures.

- With regard to the sunset review conducted by the ITC:

- The ITC's misapplication of the "would be likely to lead to" principle;

- The ITC's failure to conduct an "objective examination" of the record based on "positive evidence";

- The ITC's failure to base its determination of injury on the "effects of dumping" on the domestic industry and to consider whether injury was caused by "any known factors other than the dumped imports";

- The ITC's cumulative assessment of injury; and

- The standards requiring that the ITC determine whether injury would be likely to continue or recur "within a reasonable foreseeable time" and that the ITC "shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves over a longer period of time", both *per se* and applied.

- With regard to the fourth administrative review:

- Commerce's determination not to revoke the antidumping order;

- Commerce's retroactive application of new requirements for revocation; and

- Commerce's use of the practice known as "zeroing" for negative dumping margins.

Mexico also alleges that the U.S. statutory, regulatory and administrative provisions it cites require Commerce and the ITC to act inconsistently with Articles 1, 2, 11 and 18 of the AD Agreement and Article VI of the GATT 1994, thereby rendering the U.S. provisions inconsistent *per se* with those articles, as well as with Article 18.4 of the AD Agreement and Article XVI:4 of the WTO Agreement. In addition, Mexico alleges that its claims, viewed cumulatively, establish a violation of Article 11.1 of the AD Agreement and Article VI and Article X:3(a) of the GATT 1994.

Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons submitting comments may either send one copy by U.S. mail, first class, postage prepaid, to Sandy McKinzy at the address listed above, or transmit a