

**MEXICO – CERTAIN MEASURES PREVENTING THE
IMPORTATION OF BLACK BEANS FROM NICARAGUA**

Request for Consultations by Nicaragua

The following communication, dated 17 March 2003, from the Permanent Mission of Nicaragua to the Permanent Mission of Mexico and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request consultations with Mexico pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU"), Article XXII of the General Agreement on Tariffs and Trade 1994 ("GATT 1994"), Article 6 of the Agreement on Import Licensing Procedures ("Licensing Agreement") and Article 11.1 of the Agreement on the Application of Sanitary or Phytosanitary Measures ("SPS Agreement") with respect to certain measures preventing the importation of black beans from Nicaragua.

Nicaragua is particularly concerned about the following measures:

1. The administration of the procedures set out in Official Standard 006-FITO-95¹ and Official Standard 028-FITO-95², including the refusal of the competent Mexican authorities to furnish importers with the document containing the phytosanitary requirements necessary for the importation of black beans from Nicaragua;
2. The more favourable treatment that the competent Mexican authorities accord in the administration of the above procedures to like products originating in countries other than Nicaragua; and
3. The failure to publish the specific phytosanitary requirements for the importation of black beans from Nicaragua.
4. The failure to publish the rules, requirements and procedures concerning the tender for the quota allocation of black beans from Nicaragua, including but not limited to, the Public Tender No. 44/2002 for the period 2002-2003.

¹ Published in the *Diario Oficial de la Federación* on 26 February 1996 and entered into force on 27 February 1996. Notified to the Committee on Sanitary and Phytosanitary Measures on 4 September 1995 as document G/SPS/N/MEX/44.

² Published in the *Diario Oficial de la Federación* on 12 October 1998 and entered into force on 27 October 1998. Notified to the Committee on Sanitary and Phytosanitary Measures on 27 September 1995 as document G/SPS/N/MEX/68.

In the view of Nicaragua, the above measures are inconsistent with Mexico's obligations under Articles I:1, X:1, X:3(a), XI:1 and XIII:1 of the GATT 1994 and Articles 1.2, 1.3, 1.4(a) and 2.2(a) of the Licensing Agreement. If the measures listed above are sanitary or phytosanitary measures as defined in the SPS Agreement, they would, in the view of Nicaragua, not be consistent with Articles 2.1, 2.2, 2.3, 5.1, 7 and paragraph 1 of Annex B of the SPS Agreement. Nicaragua reserves its right to raise further factual or legal issues during the course of the consultations.

Nicaragua considers that, as a result of the above measures, the benefits accruing to it directly or indirectly under the GATT 1994, the Licensing Agreement and the SPS Agreement are being nullified or impaired. Nicaragua therefore requests that the consultations be held at your earliest convenience with a view to achieving a prompt settlement of the matter.

My authorities look forward to receiving your reply to this request. I propose that the date and venue of the consultations be agreed between our missions.
