

*United States - Anti-dumping Measures on  
Cement from Mexico*

(WT/DS281)

**Closing Statement of the United States at the First Meeting  
of the Panel with the Parties**

**February 18, 2005**

Mr. Chairman, members of the Panel:

1. On behalf of the United States delegation, I would like to thank you again for the opportunity to present our arguments about the issues in this dispute.
2. We would like to make three brief points in closing. First, although there are an exceptionally large number of claims and arguments in this dispute, many of these have been addressed in prior disputes. For example, many of the legal issues Mexico raises relating to the ITC's sunset reviews – such as the application of the term “likely,” the timeframe in which injury would be likely to recur, and whether Article 3 applies to sunset reviews under Article 11.3 – were addressed in *US – Argentina Sunset*. The reasoning with respect to such issues in the prior disputes is relevant, and may assist the Panel in discharging the substantial task before it.
3. Second, as Mexico's new request for a “preliminary ruling” underscores, one of Mexico's main interests appears to be to have the panel re-weigh the facts that were before Commerce and the ITC in the hopes that the Panel will reach different conclusions with regard to that evidence. The dispute settlement process cannot, however, be used for such purposes. Article 17.6(i) states in unambiguous terms that “the panel shall determine whether *the authorities*' establishment of the facts was proper and the evaluation of those facts was unbiased and objective.” Thus, the question is not whether, had the Panel assessed the facts for itself, it

might have reached different conclusions. The question is whether Commerce and the ITC properly established evaluated the facts. The burden is on Mexico to show that Commerce and the ITC did *not* do so. Mexico has failed to meet this burden.

4. This brings us to our third and final point: the burden is on Mexico, as the complaining party, to make a *prima facie* case that the United States has breached specific obligations under the WTO agreements. This burden cannot be satisfied by invoking WTO obligations that do not exist and making unsubstantiated assertions about the alleged “illegality” of U.S. actions. Nor can this burden be satisfied through the selective recitation of facts that Mexico believes should have been given greater weight by the investigating authorities. In order to make a *prima facie* case of WTO-inconsistency, Mexico must identify *specific* WTO obligations and demonstrate, in light of the standard of review set out in Article 17.6, that the United States has breached those specific obligations. Again, Mexico has failed to meet this burden.

### ***Conclusion***

5. Thank you again for agreeing to participate in the work of this Panel. We look forward to continuing that work with you in the coming weeks.