

CANADA - MEASURES AFFECTING THE IMPORTATION OF MILK
AND THE EXPORTATION OF DAIRY PRODUCTS

Request for the Establishment of a Panel by the United States

The following communication, dated 2 February 1998, from the Permanent Mission of the United States to the Dispute Settlement Body, is circulated in accordance with Article 6.2 of the DSU.

The Government of Canada is providing subsidies, and in particular export subsidies, on dairy products through its national and provincial pricing arrangements for milk and other dairy products without regard to the export subsidy reduction and other WTO commitments undertaken by Canada. Specifically, the Government of Canada established and maintains a system of special milk classes through which it maintains high domestic prices, promotes import substitution, and provides export subsidies for dairy products going into world markets. These practices distort markets for dairy products and adversely affect US sales of dairy products.

In addition, although Canada committed under the Marrakesh Agreement Establishing the World Trade Organization to permit access to an in-quota quantity of 64,500 tons (product weight basis) under a tariff-rate quota for imports of fluid milk and cream, Canada has refused to permit commercial import shipments within the quota. Instead, Canada is administering this tariff-rate quota in a manner that denies market access.

These measures appear to be inconsistent with the obligations of Canada under the General Agreement on Tariffs and Trade 1994 (GATT 1994), the Agreement on Agriculture, the Agreement on Subsidies and Countervailing Measures, and the Agreement on Import Licensing Procedures. The measures in question are the Canadian Dairy Commission Act, agreements of the Canadian Dairy Commission, the Interprovincial Comprehensive Agreement on Special Class Pooling (as well as the P-4, P-6, and P-9 interprovincial pooling agreements), the National Milk Marketing Plan (and amendments thereto), operations of the Canadian Milk Supply Management Committee, the Dairy Products Marketing Regulations, and Canada's administration of its tariff-rate quota on fluid milk and cream (as reflected in its implementation of its WTO Schedule of Concessions).

The United States considers that those measures are inconsistent with the obligations of Canada under Articles II, X, XI, and XIII of the GATT 1994; Articles 3, 4, 8, 9, and 10 of the Agreement on Agriculture; Article 3 of the Agreement on Subsidies and Countervailing Measures; and Articles 1, 2 and 3 of the Agreement on Import Licensing Procedures.

On 8 October 1997, the United States Government requested consultations with the Government of Canada pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes, Article XXII:1 of the General Agreement on Tariffs and Trade 1994 (GATT 1994),

Article 19 of the Agreement on Agriculture (to the extent that it incorporates by reference Article XXII of the GATT 1994), Article 30 of the Agreement on Subsidies and Countervailing Measures (to the extent it incorporates by reference Article XXII of the GATT 1994), and Article 6 of the Agreement on Import Licensing Procedures (to the extent that it incorporates Article XXII of the GATT 1994) with respect to export subsidies of Canada on dairy products and the administration by Canada of the tariff-rate quota on fluid milk and cream. The United States and Canada held consultations in Geneva on 19 November 1997. The consultations, however, failed to settle the dispute.

Accordingly, the United States respectfully requests the establishment of a panel with standard terms of reference as set out in Article 7 of the DSU. The United States further asks that this request for a panel be placed on the agenda for the next meeting of the Dispute Settlement Body to be held on 13 February 1998.
