

**BELGIUM – ADMINISTRATION OF MEASURES
ESTABLISHING CUSTOMS DUTIES FOR RICE**

Request for the Establishment of a Panel by the United States

The following communication, dated 19 January 2001, from the Permanent Mission of the United States to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

The United States considers that certain measures of the Government of Belgium are inconsistent with Belgium's commitments and obligations under the General Agreement on Tariffs and Trade 1994 (GATT 1994), the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (Customs Valuation Agreement), and the Agreement on Technical Barriers to Trade. In particular:

(1) Belgian customs authorities have disregarded the transaction values associated with certain shipments of rice imported from the United States between 1 July 1997 and 31 December 1998, for purposes of establishing the relevant customs values and duties. Although the Belgian authorities approved the proffered transaction values prior to entry of the rice in question, Belgian customs authorities in November 2000 rejected the use of the same transaction values when assessing duties. The failure to use transaction values for purposes of assessing duties appears to be inconsistent with Belgium's commitments under Articles 1-7, 14 and Annex I of the Customs Valuation Agreement;

(2) By this failure, Belgium has assessed duties on the subject rice imports that exceed the levels provided for in Headnote 7 of the Schedule of Specific Commitments of the European Communities and their member States LXXX, a part of the GATT 1994. The imposition of duties in excess of those set forth in that Schedule appears to be inconsistent with Belgium's commitments under GATT 1994 Article II:1(a) and (b);

(3) Belgian customs authorities appear to have disclosed confidential information which was provided for purposes of customs valuation without the specific permission of the party to whom the information pertained in apparent breach of Belgium's commitments under Article 10 of the Customs Valuation Agreement;

(4) Belgian customs authorities have failed to provide the importer with an explanation in writing as to how the customs value of the importer's goods were determined in an apparent breach of Belgium's commitments under Articles 7.3 and 16 of the Customs Valuation Agreement.

(5) Belgian customs authorities, by disregarding the transaction value associated with the subject entries and by instead basing customs value in part on the price of goods on the domestic market of the country of exportation and the price of goods for export to a country other than the

country of importation, appear to have acted in contravention of Belgium's commitments under paragraphs 7.2(c) and 7.2(e), respectively, of the Customs Valuation Agreement;

(6) In addition to its apparent failure to determine customs duties in a manner consistent with the aforementioned obligations, Belgium was advised by European Community authorities to impose a penalty on the entries in question in the amount of 50 ECU per metric ton pursuant to article 9 of Commission Regulation 703/97, which is administered by the Belgian customs authorities. The application of this penalty, particularly in the absence of any breach of the applicable regulation, appears to be inconsistent with Belgium's obligations under GATT 1994 Article VIII:3, GATT 1994 Article VIII:1(a) and GATT 1994 Article II:1(a) and (b).

(7) Belgium appears to have failed to administer its customs valuation determinations and its assessment of tariffs on imported rice in a uniform, impartial, reasonable, and transparent manner and with the requisite mechanisms to afford a prompt review and correction of administrative action relating to customs matters. This situation has produced substantial uncertainty regarding the actual amount of duty that will be applicable to shipments of imported rice, has denied an opportunity for administrative review of customs decisions, and thus is impeding trade. The rejection by Belgian customs authorities of the proffered transaction value appears to have been based *inter alia* on the application of an unpublished interpretative memorandum addressing the value to be assigned to specific, limited product characteristics. These measures appear to be a breach of Belgium's commitments under paragraphs 1, 2 and 3(a) and (b) of GATT 1994 Article X;

(8) Belgian customs authorities by applying the aforementioned interpretative memorandum of April 1998, which confined the category of product characteristics and the value to be assigned to such characteristics in establishing the customs value of the imports in question, appear to have acted inconsistently with Belgium's obligations set forth in paragraphs 2, 4 and 5 of Article 2 of the Agreement on Technical Barriers to Trade; and

(9) By applying the foregoing measures, Belgium also appears to have nullified or impaired benefits accruing to the United States directly or indirectly under the cited agreements, within the meaning of GATT 1994 Article XXIII:1(b).

On 12 October 2000, the United States Government requested consultations with the Government of Belgium pursuant to Articles 1 and 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Article XXIII of the GATT 1994, Article 19 of the Customs Valuation Agreement, Article 14 of the Agreement on Technical Barriers to Trade, and Article 19 of the Agreement on Agriculture (WT/DS210/1). The United States and Belgium held such consultations on 30 November 2000. Unfortunately, the consultations did not resolve the dispute.

Accordingly, the United States respectfully requests the Dispute Settlement Body to establish a panel pursuant to Article 6 of the DSU to examine this matter with the standard terms of reference as set out in Article 7.1 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 1 February 2001.
