

**CANADA – MEASURES AFFECTING THE IMPORTATION OF MILK
AND THE EXPORTATION OF DAIRY PRODUCTS**

Notification of Mutually Agreed Solution

The following communication, dated 9 May 2003, from the Permanent Mission of Canada and the Permanent Mission of New Zealand to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 3.6 of the DSU.

On 17 January 2003, the WTO Dispute Settlement Body (DSB) adopted the reports of the Panel and Appellate Body in *Canada - Measures Affecting the Importation of Milk and the Exportation of Dairy Products: Second Recourse to Article 21.5 of the DSU* by New Zealand (WT/DS113/RW2 and WT/DS113/AB/RW2). In accordance with Article 3.6 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (DSU), the Governments of Canada and New Zealand wish to notify the DSB that they have reached a mutually agreed solution regarding the matters raised by New Zealand in this dispute.

This mutually agreed solution consists of the following elements:

1. Canada confirms that the provinces of Alberta, British Columbia, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Ontario, Prince Edward Island and Québec have amended their respective regulations and thereby have eliminated the commercial export milk (CEM) program at the provincial level as of 30 April 2003.
2. Canada confirms that all consequential federal government amendments to regulations relating to the elimination of the CEM program will be carried out as expeditiously as practicable, and undertakes to complete this process by 1 August 2003.
3. Canada confirms that for the marketing year that began on 1 August 2002, Canada will not exceed its WTO export subsidy reduction commitments for butter and skim milk powder. With respect to cheese and other milk products, given the existence of long-term CEM contracts at the time of the WTO Appellate Body report in December 2002, Canada will exceed its WTO export subsidy reduction commitments for these products in the marketing year that began 1 August 2002. However, Canada confirms that following the issuance of the Appellate Body report it took immediate steps to prevent any new CEM contracts, such that no new CEM contracts have been entered into subsequent to 31 December 2002. Furthermore, Canada agrees not to issue any further permits under Special Milk Class 5(d) or any other programme that provides export subsidies for cheese and other milk products for the remainder of the marketing year that began 1 August 2002. Canada notes that on 4 April 2003, it provided to New Zealand estimates, based on an industry survey, that exports of cheese and other milk products for which export subsidies would be granted for the marketing year that began on 1 August 2002, would be approximately 13,000 and 62,000 metric tons, respectively.

4. Canada confirms that, for the marketing year beginning 1 August 2003, and thereafter, Canada's exports of dairy products for which export subsidies have been granted will not exceed the quantities and budgetary outlays specified in its WTO Schedule.

In light of the foregoing, and Canada's commitment to comply with its obligations under the *Agreement on Agriculture* as clarified by the DSB's recommendations and rulings in this dispute, New Zealand hereby withdraws its request (WT/DS113/17) to the DSB pursuant to Article 22.2 of the DSU for authorization to suspend the application to Canada of tariff concessions and related obligations under the General Agreement on Tariffs and Trade 1994 covering trade in the amount of US\$35 million on an annual basis. New Zealand having withdrawn its request under Article 22.2 of the DSU, Canada hereby withdraws its request (WT/DS113/18) to the DSB for arbitration under Article 22.6 of the DSU objecting to the level of suspension of tariff concessions and other obligations under the GATT 1994 proposed by New Zealand.

This letter is without prejudice to the WTO rights and obligations of Canada and New Zealand.

For Canada:

For New Zealand:

(s) Sergio Marchi
Ambassador

(s) Tim Groser
Ambassador
