

**UNITED STATES – DEFINITIVE SAFEGUARD MEASURES ON IMPORTS
OF WHEAT GLUTEN FROM THE EUROPEAN COMMUNITIES**

Request for the Establishment of a Panel by the European Communities

The following communication, dated 3 June 1999, from the Permanent Delegation of the European Commission to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 6.2 of the DSU.

My authorities have instructed me to request the establishment of a panel pursuant to Article XXIII of the General Agreement on Tariffs and Trade 1994 (GATT 1994), Articles 4 and 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Article 19 of the Agreement on Agriculture and Article 14 of the Agreement on Safeguards, with regard to the definitive safeguard measures imposed by the United States on imports of wheat gluten.

Under the "Proclamation 7103 of 30 May 1998 - To facilitate Positive Adjustment to Competition From Imports of Wheat Gluten" and the "Memorandum of 30 May 1998 - Action Under Section 203 of the Trade Act of 1974 Concerning Wheat Gluten" by the President of the United States, published in the Federal Register Vol. 63, No. 106, pp. 30359 and 30363 on 3 June 1998, the United States imposed definitive safeguard measures in the form of a quantitative limitation on imports of wheat gluten effective as of 1 June 1998.

On 17 March 1999 the European Communities requested consultations with the United States with a view to reaching a mutually satisfactory solution of the matter. The request was circulated in document WT/DS166/1 dated 23 March 1999. Such consultations, which were held on 3 May 1999 in Geneva, have allowed a better understanding of the respective positions but have not led to a satisfactory resolution of the matter.

The European Communities considers that the United States are in breach of the US obligations under Articles 2.1 and 4 of the Agreement on Safeguards, since the United States disregarded in the investigation fundamental requirements under these provisions. Moreover, the European Communities considers that the relevant conditions under Article XIX of GATT 1994 are not fulfilled and also that the measure was designed and applied in order to breach the most-favoured-nation principle under Article I of GATT 1994, particularly since Australia is favoured in terms of impact on trade. In addition, the European Communities considers that the United States is in breach of Article 5 of the Agreement on Safeguards, since while adopting and applying the measure it violated the proportionality rules and the rules on allocation therein, and of Article 8 of the Agreement on Safeguards, in so far as a substantially equivalent level of concessions has not been maintained. The European Communities also considers that the procedural obligations under Article 12 of the Agreement on Safeguards were not fully respected by the United States. Finally, the European Communities considers that the measure in effect constitutes a substantial breach of the US obligations under Article 4.2 of the Agreement on Agriculture.

The European Communities requests that the panel be established with the standard terms of reference.

The European Communities asks that this request be placed on the agenda for the meeting of the Dispute Settlement Body to be held on 16 June 1999.
