# WORLD TRADE ORGANIZATION

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## CANADA – MEASURES RELATING TO EXPORTS OF WHEAT AND TREATMENT OF IMPORTED GRAIN

Request for Consultations by the United States

The following communication, dated 17 December 2002, from the Permanent Mission of the United States to the Permanent Mission of Canada and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

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My authorities have instructed me to request consultations with Canada pursuant to Article 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (DSU), Article XXII:1 of the *General Agreement on Tariffs and Trade 1994* (GATT 1994), and Article 8 of the *Agreement on Trade-Related Investment Measures* (to the extent it incorporates by reference Article XXII of the GATT 1994) with regard to matters concerning the export of wheat by the Canadian Wheat Board and the treatment accorded by Canada to grain imported into Canada.

The Government of Canada has established the Canadian Wheat Board, and has granted to this enterprise exclusive and special privileges, including the exclusive rights to purchase and sell Western Canadian wheat for human consumption. The actions of the Government of Canada and the Canadian Wheat Board appear to be inconsistent with the obligations of the Government of Canada under Article XVII of the GATT 1994. In particular, the activities of the Government of Canada and the Canadian Wheat Board related to exports of wheat appear to be:

- inconsistent with paragraph 1(a) of Article XVII of the GATT 1994, which requires State enterprises in their purchases or sales involving exports to act in a manner consistent with the general principles of non-discriminatory treatment prescribed in the GATT 1994; and

- inconsistent with paragraph 1(b) of Article XVII of the GATT 1994, which requires State enterprises to make such purchases or sales solely in accordance with commercial considerations and to afford the enterprises of other WTO Members adequate opportunity, in accordance with customary business practice, to compete for such purchases or sales.

With regard to the treatment of grain that is imported into Canada, Canadian measures discriminate against imported grain, including grain that is the product of the United States:

- Under the Canadian Grain Act and Canadian grain regulations, imported wheat may not be mixed with Canadian domestic grain being received into, or being discharged out of, grain elevators. This treatment appears to be inconsistent with the obligations of Canada under Article III of the GATT 1994 and Article 2 of the *Agreement on Trade-Related Investment Measures*.

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- Canadian law caps the maximum revenues that railroads may receive on the shipment of Canadian domestic grain, but not revenues that may be received on the shipment of imported grain. In addition, in allocating government-owned railcars used for the transport of grain, Canada provides a preference for domestic grain over imported grain. These measures related to rail transportation appear to be inconsistent with the obligations of Canada under Article III of the GATT 1994 and Article 2 of the *Agreement on Trade-Related Investment Measures*.

We look forward to receiving your reply to this request and to fixing a mutually acceptable date for consultations.