

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

Recourse by New Zealand to Article 22.2 of the DSU

The following communication, dated 16 February 2001, from the Permanent Mission of New Zealand to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 22.2 of the DSU.

On 23 December 1999, pursuant to Article 21.3(b) of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Canada, the United States and New Zealand agreed (WT/DS103/10; WT/DS113/10) on the reasonable period of time for implementation of the recommendations and rulings of the Dispute Settlement Body (DSB) in "Canada - Measures Affecting the Importation of Milk and the Exportation of Dairy Products" (WT/DS113). According to the terms of the 23 December 1999 agreement, as amended on 11 December 2000 (WT/DS103/13, WT/DS113/13), the staged implementation process, "including any new measures for the export of" dairy products, was to be completed by 31 January 2001. New Zealand considers that Canada has failed to comply with the above mentioned recommendations and rulings of the DSB within that timeframe or since the expiry of the period.

Pursuant to Article 22.2 of the DSU, New Zealand requests authorization from the DSB to suspend the application to Canada of tariff concessions and other obligations under the General Agreement on Tariffs and Trade 1994 (GATT 1994) covering trade in the amount of US\$35 million. This level of suspension is equivalent on an annual basis to the level of nullification or impairment of benefits accruing to New Zealand resulting from Canada's failure to bring its export subsidy measures concerning dairy products into compliance, by 31 January 2001, with the Agreement on Agriculture or otherwise comply with the recommendations and rulings of the DSB.

New Zealand intends to take countermeasures and suspension of concessions in the form of the suspension of tariff concessions and related obligations under the GATT 1994 by imposing duties in excess of bound rates on a list of products drawn from the indicative list attached (Annex).

In accordance with the Understanding between Canada and New Zealand Regarding Procedures under Articles 21 and 22 of the DSU (WT/DS113/14), New Zealand will not object to the referral of an objection by Canada to the level of suspension of concessions or other obligations to arbitration pursuant to Article 22.6 of the DSU. In this case New Zealand will agree to request the arbitrator to suspend its work until either (a) the adoption of the Article 21.5 compliance panel report; or (b) if there is an appeal, the adoption of the Appellate Body report.

ANNEX

HS	Description
2	Meat and edible meat offal
3	Fish and crustaceans, molluscs and other aquatic invertebrates
4	Dairy produce; birds' eggs; natural honey; edible products of animal origin, not elsewhere specified or included
5	Products of animal origin not elsewhere specified or included
7	Edible vegetables and certain roots and tubers
8	Edible fruits and nuts; peel of citrus fruits or melons
10	Cereals
11	Products of the milling industry; malt; starches; inulin; wheat gluten
12	Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medical plants; straw and fodder
14	Vegetable plaiting materials; vegetable products not elsewhere specified or included
13	Lacs, gums, resins and other vegetable saps and extracts
15	Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes
16	Preparations of meat, fish or crustaceans, molluscs or other aquatic invertebrates
17	Sugars and sugar confectionery
18	Cocoa and cocoa preparations
19	Preparations of cereals, flour, starch or milk; pastrycooks' products
20	Preparations of vegetables, fruits, nuts, or other parts of plants
21	Miscellaneous edible preparations
22	Beverages, spirits and vinegar
23	Residues and waste from the food industries; prepared animal fodder
25	Salt; sulphur; earths and stone; plastering materials, lime and cement
26	Ores, slag and ash
28	Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes
29	Organic chemicals
30	Pharmaceutical products
31	Fertilisers
32	Tanning or dyeing extracts; tannins and their derivatives; dyes, pigments and other colouring matter; paints and varnishes; putty and other mastics; inks
33	Essential oils and resinoids; perfumery, cosmetic or toilet preparations
34	Soaps, organic surface-active agents, washing and lubricating preparations, artificial waxes, prepared waxes, polishing or souring preparations, candles and similar articles, modeling pastes, "dental waxes", dental preparations with a basis of plaster
35	Albuminous substances; modified starches; glues; enzymes
37	Photographic or cinematographic goods
38	Miscellaneous chemical products
39	Plastic and articles thereof
40	Rubber and articles thereof

HS	Description
44	Wood and articles of wood; wood charcoal
48	Paper and paperboard; articles of paper pulp, paper or paperboard
49	Books, newspapers, pictures and other products of the printing industry; manuscripts, typescripts and plans
52	Cotton
54	Man-made filaments
55	Man-made staple fibres
56	Wadding, felt and nonwovens; special yarns; twine, cordage, ropes and cable and articles thereof
57	Carpets and other textile floor coverings
58	Special woven fabrics
59	Impregnated, coated, covered or laminated textile fabrics; textile articles of a kind suitable for industrial use
60	Knitted or crocheted fabrics
61	Articles or apparel and clothing accessories, knitted or crocheted
62	Articles or apparel and clothing accessories, not knitted or crocheted
63	Other made up textile articles; sets; worn clothing and worn textile articles; rags
65	Headgear and parts thereof
68	Articles of stone, plaster, cement, asbestos, mica or similar materials
69	Ceramic products
70	Glass and glassware
71	Natural or cultured pearls, precious or semi-precious stones, precious metals, metal clad with precious metal, and articles thereof; imitation jewellery; coins
72	Iron and steel
73	Articles of iron and steel
74	Copper and articles thereof
75	Nickel and articles thereof
76	Aluminium and articles thereof
79	Zinc and articles thereof
81	Other base metals; cermets; articles thereof
82	Tools, implements, cutlery, spoons and forks, of base metal; parts thereof of base metal
83	Miscellaneous articles of base metal
84	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof
85	Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles
86	Railway or tramway locomotives, rolling stock and parts thereof; railway or tramway track fixtures and fittings and parts thereof; mechanical (including electro-mechanical) traffic signalling equipment of all kinds
87	Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof
88	Aircraft, spacecraft, and parts thereof
89	Ships, boats and floating structures
90	Optical , photographic, cinematographic, measuring, checking , precision, medical or surgical instruments and apparatus; parts and accessories thereof
91	Clocks and watches and parts thereof
92	Musical instruments; parts and accessories of such articles

HS	Description
93	Arms and ammunition; parts and accessories thereof
94	Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings; lamps and lighting fittings, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like; prefabricated buildings
95	Toys, games and sports requisites; parts and accessories thereof
96	Miscellaneous manufactured articles