

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

Notification of an Appeal by the United States under
paragraph 4 of Article 16 of the Understanding on Rules and
Procedures Governing the Settlement of Disputes (DSU)

The following notification, dated 26 September 2000, sent by the United States to the Dispute Settlement Body (DSB), is circulated to Members. This notification also constitutes the Notice of Appeal, filed on the same day with the Appellate Body, pursuant to the *Working Procedures for Appellate Review*.

Pursuant to Article 16 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU") and Rule 20 of the *Working Procedures for Appellate Review*, the United States hereby notifies its decision to appeal to the Appellate Body certain issues of law and legal interpretation covered in the Panel Report on *United States – Definitive Safeguard Measures on Imports of Wheat Gluten from the European Communities* (WT/DS166/R) and certain legal interpretations developed by the Panel.

1. The United States seeks review by the Appellate Body of the Panel's conclusion that the United States International Trade Commission failed to comply with the requirements of Article 4.2(b) of the *Agreement on Safeguards* ("SGA"). This conclusion is in error, and is based upon erroneous findings on issues of law and on related legal interpretations.
2. The United States seeks review by the Appellate Body of the Panel's conclusion that the exclusion of Canadian products from the safeguard measure on wheat gluten is inconsistent with SGA Articles 2.1 and 4.2, the Panel's failure to address whether Article XXIV of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994") justified the exclusion of Canadian wheat gluten from the wheat gluten safeguard measure, and the Panel's legal conclusion that SGA footnote 1 did not affect the application of the SGA to U.S. imports from a fellow party to the North American Free Trade Agreement. These conclusions are in error, and are based upon erroneous findings on issues of law and on related legal interpretations.
3. The United States seeks review by the Appellate Body of the Panel's conclusion that the United States failed to provide adequate opportunity for prior consultations regarding the safeguard measure on wheat gluten, as well as its conclusion that the United States failed to endeavor to maintain a substantially equivalent level of concessions and other obligations between itself and other WTO Members that export wheat gluten, inconsistent with SGA Articles 12.3 and 8.1. These conclusions are in error, and are based upon erroneous findings on issues of law and on related legal interpretations, including the Panel's interpretation of SGA Articles 12.1 and 12.2.

4. The United States seeks review by the Appellate Body of the Panel's conclusion that certain notifications provided by the United States to the Committee on Safeguards did not satisfy the requirements of SGA Article 12.1(a), (b), and (c). This finding is in error, and is based upon erroneous findings on issues of law and on related legal interpretations.
