

**UNITED STATES – DETERMINATION OF THE
INTERNATIONAL TRADE COMMISSION IN HARD RED SPRING WHEAT
FROM CANADA**

Request for Consultations by Canada

The following communication, dated 8 April 2004, from the delegation of Canada to the delegation of the United States and to the Chairperson of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request consultations with the Government of the United States of America pursuant to Article 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (DSU), Article XXII of the *General Agreement on Tariffs and Trade 1994* (GATT 1994), Article 17 of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* (Anti-Dumping Agreement) and Article 30 of the *Agreement on Subsidies and Countervailing Measures* (SCM Agreement) concerning: the investigation of the United States International Trade Commission (Commission) in *Hard Red Spring Wheat from Canada* (Invs. Nos. 701-TA-430B and 731-TA-1019B (Final)); the Commission's final determination that an industry in the United States is materially injured by reason of imports from Canada of hard red spring wheat that have been found by the Department of Commerce to be subsidized by the Government of Canada and sold in the United States at less than fair value (68 Federal Register (FR) 60707 (23 October 2003)); the Department of Commerce's countervailing duty order (68 FR 60642 (23 October 2003)) and antidumping duty order (68 FR 60641 (23 October 2003)) with respect to hard red spring wheat from Canada; and the final definitive anti-dumping and countervailing duties applied as a result.

Through these measures, it appears that the United States has violated its obligations under Article VI:6(a) of the GATT 1994, Articles 1, 3.1, 3.2, 3.4, 3.5 and 18.1 of the Anti-Dumping Agreement and Articles 10, 15.1, 15.2, 15.4, 15.5, 19.1 and 32.1 of the SCM Agreement, *inter alia*, by:

1. Failing to apply anti-dumping and countervailing duties only in circumstances that are provided for and pursuant to investigations conducted in accordance with Article VI:6(a) of the GATT 1994 and the above-referenced provisions of the Anti-Dumping Agreement and the SCM Agreement.
2. Failing to comply with the requirements of the above provisions relating to injury and causation by, *inter alia*:

- (i) failing to properly examine the effect of the dumped and subsidized imports on prices in the domestic market for like products;
- (ii) failing to properly examine the impact of the dumped and subsidized imports on domestic producers of like products;
- (iii) failing to properly demonstrate a causal relationship between the dumped and subsidized imports and material injury to the domestic industry;
- (iv) failing to properly examine known factors other than dumping and subsidizing that were injuring the domestic industry; and
- (v) attributing to the dumped and subsidized imports the injuries caused by other factors.

I look forward to receiving your reply to this request and to selecting a mutually acceptable date for holding consultations, in accordance with the timeframes set out in DSU Article 4.3. Canada welcomes any suggestions that the United States may wish to make concerning dates on which these consultations could take place.
