

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

Agreement under Article 21.3(b) of the DSU

The following communication, dated 23 December 1999, from the Permanent Mission of Canada to the Chairman of the Dispute Settlement Body, with copies to the Permanent Missions of the United States and New Zealand, is circulated in accordance with Article 21.3(b) of the Understanding on Rules and Procedures Governing the Settlement of Disputes.

This letter is to inform you that Canada, the United States and New Zealand have reached an understanding regarding the reasonable period of time in the above-referenced matter. The terms of this understanding are set out in the copies of the agreement attached to this letter.

Agreement Pursuant to Article 21.3(b) of the DSU

This is to confirm that, following consultations, Canada, the United States of America, and New Zealand (the "Parties") have reached an agreement on four discrete periods for the "reasonable period of time" to be accorded to Canada for an implementation process to comply with the recommendations and rulings of the Dispute Settlement Body (DSB) in the matter of *Canada - Measures Affecting the Importation of Milk and the Exportation of Dairy Products*, pursuant to Article 21.3 of the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU).

The elements of this agreement are as follows:

1. Canada shall complete each element of a staged implementation process no later than the applicable date indicated in paragraphs 2 and 3 below. For this purpose, four distinct reasonable periods are established representing the four stages of the implementation process. Implementation will be carried out through the following steps:
2. Canada will complete by 1 February 2000, all necessary regulatory amendments required to remove the provision in its General Import Permit No. 1 restricting imports of fluid milk to importations not exceeding C\$20.00 in value.
3. In regard to the implementation process with respect to export of dairy products from Canada:
 - Canada shall be in compliance with its export quantitative reduction commitment levels for butter, skim milk powder and other milk products, as set out in Section II of Part IV of its Schedule, for the marketing year 1999-2000, beginning 1 August 1999 and ending 31 July 2000, consistent with the recommendations and rulings of the DSB in the matter of *Canada - Measures Affecting the Importation of Milk and the Exportation of Dairy Products*.
 - Canada shall be in compliance with its reduction commitment levels for butter, cheese, skim milk powder and other milk products as set out in Section II of Part IV of its Schedule, for the marketing year 2000-2001, beginning 1 August 2000 and ending 31 July 2001, and thereafter, consistent with the recommendations and rulings of the DSB in the matter of *Canada - Measures Affecting the Importation of Milk and the Exportation of Dairy Products*.
 - Canada undertakes that, with respect to the marketing year 1999-2000, Canada's exports of cheese under Special Classes 5(d) and (e) shall not exceed 20,433 tonnes. Canada also undertakes that the Canadian Dairy Commission shall not issue any permits or enter into any equivalent commitments with respect to Special Classes 5(d) and (e) for the export of cheese in the marketing year 1999-2000 after 31 March 2000. For greater certainty, Canada confirms that, as a result of these commitments, the Canadian Dairy Commission shall not issue permits or enter into any equivalent commitments in the marketing year 1999-2000 for a volume of cheese under Special Classes 5(d) and (e) that, when combined with the volume of cheese exported in the marketing year 1999-2000 pursuant to Special Classes 5(d) and (e) permits issued by the Canadian Dairy Commission in the prior marketing year (1998-1999), exceeds 20,433 tonnes.¹

¹ This amount (20,433 tonnes) shall be net of any permits that are issued and then subsequently canceled. Canceled permits may be re-issued subsequent to March 31, 1999 in the same volume they were originally issued and that volume in the re-issued permit shall apply to the amount (20,433 tonnes).

- Any remaining aspects of the implementation process with respect to the export of such dairy products from Canada, including any new measures for the export of these products, will be completed no later than 31 December 2000, and will be fully consistent with Canada's WTO obligations under the *Agreement on Agriculture*, as reflected in the recommendations and rulings of the DSB in the matter of *Canada - Measures Affecting the Importation of Milk and the Exportation of Dairy Products*.

4. It is agreed that consultations between all the Parties shall be held on or about 15 February 2000, 15 May 2000, 15 September 2000, 15 December 2000. For the purposes of such consultations, Canada shall report on the quantities for butter, cheese, skim milk powder and other milk products that have been exported under Special Classes 5(d) and (e), or under any new measures implemented, in whole or in part, in Canada for the export of dairy products during this implementation period, during each quarter of the marketing year to date. For the purposes of the consultations to be held on or about 15 February 2000, Canada will report on quantities of such exports during the prior two quarters. For the consultations scheduled for 15 February 2000 and 15 May 2000, Canada shall also report on the level of Special Class 5 (d) and (e) permits issued by the Canadian Dairy Commission for the prior quarters of the 1999-2000 marketing year. For the consultations scheduled for 15 December 2000, Canada will also report on budgetary outlays for any exports of butter, cheese, skim milk powder and other milk products under Special Classes 5(d) and (e) after 1 August 2000 during the first quarter of the marketing year commencing on that date. These consultations will be additional to, not in lieu of, surveillance provided in Article 21.6 of the DSU.

5. For the purpose of providing the other Parties with this quantitative and budgetary outlay data, Canada will institute a tracking system through the Canadian Dairy Commission, working with the Canadian dairy industry, requiring reporting by exporters to the Canadian Dairy Commission of exports under Special Classes 5(d) and (e), including product category and quantity. This system shall be in place to allow for the presentation of relevant information in advance of consultations referred to in paragraph 4.

6. At each such consultation, Canada will also provide a report on the status of each aspect of the implementation process.

7. Canada will provide notice to the other Parties once it has determined that all aspects of the implementation process have been completed.

For Canada:

For New Zealand:

For the United States
of America:

22 December 1999
