

# WORLD TRADE ORGANIZATION

RESTRICTED

**WT/DS9/2**

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## EUROPEAN COMMUNITIES - DUTIES ON IMPORTS OF CEREALS

### Request for the Establishment of a Panel by Canada

The following communication, dated 14 September 1995, from the Permanent Mission of Canada to the Chairman of the Dispute Settlement Body is circulated at the request of that delegation.

On 30 June 1995 the Government of Canada requested consultations with the Commission of the European Communities regarding certain regulations of the European Communities concerning cereals. In accordance with Article 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), that request was notified to the Dispute Settlement Body ("DSB"), the Council for Trade in Goods, the Committee on Customs Valuation, the Committee on Agriculture, and the Committee on Market Access. The request was circulated to Members of the World Trade Organization on 10 July 1995 (WT/DS9/1). On 5 July 1995, the Commission of the European Communities accepted the Government of Canada's request.

The Government of Canada requested consultations with a view to gaining the full benefit of the European Communities' concession with respect to certain cereals, contained in a headnote to the European Communities' Schedule annexed to the *Marrakesh Protocol to the General Agreement on Tariffs and Trade* 1994:

"The Community undertakes in respect of cereals falling within the heading

- ex 1001 wheat
- 1002 rye
- 1003 barley
- ex 1005 maize, except hybrid seed, and
- ex 1007 sorghum, except hybrids for sowing

to apply a duty at a level and in a manner so that the duty-paid import price for such cereals will not be greater than the effective intervention price (or in event of a modification of the current system, the effective support price) increased by 55%.

The duty applied shall in no case exceed the duty established according to this schedule."

Regulations of the European Communities concerning cereals ("EC Cereals Regulations"), including Council Regulation (EEC) No. 1766/92, Council Regulation (EC) No. 3290/94, and Council Regulation (EC) NO. 1502/95, impose a duty on wheat imports based on representative prices. As a result of using representative prices rather than transaction values, the duty-paid import price for Canadian wheat will be greater than the effective intervention price increased by 55% whenever the transaction value is greater than the representative price.

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Canada and the European Communities held consultations in Geneva on 18 July 1995 with a view to reaching a satisfactory resolution of the matter. Unfortunately, the consultations failed to settle the dispute and further consultations are not likely to resolve the matter.

Pursuant to Article XXIII of the *General Agreement on Tariffs and Trade* 1994, Article 19 of the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade* 1994, and Articles 4 and 6 of the DSU, Canada hereby requests that a panel be established at the next meeting of the DSB scheduled for 27 September 1995.

Canada requests that the Panel consider and find that the EC Cereals Regulations are:

- a) inconsistent with Articles II and VII of the *General Agreement on Tariffs and Trade* 1994;
- b) inconsistent with Article 1 of the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade* 1994; and
- c) nullifying and impairing the benefits accruing to Canada pursuant to the *Agreement Establishing the World Trade Organization*.

Canada requests that the Panel be established with the standard terms of reference as set out in Article 7 of the DSU. Canada further requests that this request for the establishment of a Panel be inscribed on the agenda of the meeting of the DSB on 27 September 1995.