

**UNITED STATES – SUBSIDIES AND OTHER DOMESTIC SUPPORT
FOR CORN AND OTHER AGRICULTURAL PRODUCTS**

Request for the Establishment of a Panel by Canada

The following communication, dated 8 November 2007, from the delegation of Canada to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

On 7 February 2007, Canada and the United States held consultations with respect to whether the domestic support the United States provided in favour of its agricultural producers exceeded the commitment levels specified in Section I of Part IV of its Schedule, contrary to Article 3.2 of the *Agreement on Agriculture*. While the discussions were useful and clarified a number of issues, they did not resolve Canada's serious concerns regarding the Current Total Aggregate Measurement of Support provided by the United States. Accordingly, my authorities have now instructed me to request the establishment of a panel.

Pursuant to Articles 4, 6 and 7.1 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes*, Article XXIII of the *General Agreement on Tariffs and Trade 1994*, and Article 19 of the *Agreement on Agriculture*, Canada requests that the Dispute Settlement Body ("DSB") establish a panel with the standard terms of reference to consider the following matter:

That the United States' Current Total Aggregate Measurement of Support has exceeded its commitment levels in each of the years¹ 1999, 2000, 2001, 2002, 2004 and 2005, contrary to Article 3.2 of the *Agreement on Agriculture*.

Pursuant to Article 3.2 of the *Agreement on Agriculture*, the United States committed to limit its Current Total Aggregate Measurement of Support to the annual levels specified in section I of Part IV of its Schedule: for the year 1999, USD 19,899.264 million and for each subsequent year, USD 19,103.294 million. Despite this, the United States' Current Total Aggregate Measurement of Support provided by the measures² at issue, when properly calculated in accordance with the provisions of the *Agreement on Agriculture*, has exceeded its commitment levels in each of the years 1999, 2000, 2001, 2002, 2004 and 2005, in violation of Article 3.2 of this agreement. These violations nullify or impair the benefits accruing to Canada under the *Agreement on Agriculture*.

The measures at issue are those identified in the Annex, which forms an integral part of this request. The measures further include any other legislation, regulations and other instruments not identified in the Annex, by which any of the support under the identified measures was provided.

Canada asks that this request for the establishment of a panel be placed on the agenda of the DSB meeting scheduled for 19 November 2007.

¹ In this request, "year" has the meaning assigned to it in Article 1(i) of the *Agreement on Agriculture*.

² In this request, "measures" refers to support programs as well as support provided pursuant to those programs.

ANNEX

In this Annex, where possible, Canada (a) identifies measures by the name or description used by the United States in its yearly Table DS:1 notifications³ as well as its periodic Table DS:2 notifications of new and modified measures⁴ (collectively the "Notifications"), and (b) relies upon the Notifications to identify the legal authority for those measures. Canada also identifies additional legal authority where appropriate. The years to which each measure relates are specified in the Notifications. Reference to measures identified in the Notifications is without prejudice to whether the notified amounts of support or categorization of measures are accurate.

This Annex also identifies by name or description measures not notified by the United States and the legal authority for those measures. The years to which each of the non-notified measures relates are specified in this Annex.

Each measure identified in this Annex comprises the support program (*i.e.*, the overall design, structure and/or legal mechanism by which support is determined and/or granted) and the support provided pursuant to the support program. Thus, the use of terms such as "measures", "support", "payments" or "program" in this Annex encompasses both the support program and the support itself.

Measures	Legal Authority for the Measures (PL numbers refer to Public Laws identified in the appended table)
Adjustment assistance program	The Notifications identify: Section 32, Agricultural Adjustment Act of 1935
American Indian livestock feed program	The Notifications identify: PL 91-524, U.S.C. §1427A; PL 108-324. Canada has identified the following additional legal authorities: Section 806, PL 106-387, 114 Stat. 1549A-51; and Title 7 C.F.R. part 1439.
Biodiesel program payments	The Notifications identify: PL 107-171. Canada has identified the following additional legal authorities: Executive Order 13134 of 1999; and Title 7 C.F.R., part 1424.
Bioenergy program payments	The Notifications identify: PL 107-171. Canada has identified the following additional legal authorities: Executive Order 13134 of 1999; and Title 7 C.F.R., part 1424.
California Tri-Valley market loss	The Notifications identify: Section 843, PL 106-387.
Cattle feed program	The Notifications identify: Section 32, Agricultural Adjustment Act of 1935; and Section 165, PL 104-127.
Certificate exchange gains	The Notifications identify: PL 104-127; and Section 812, Subtitle B, Title VIII, PL 106-78. Canada has identified the following additional legal authorities: Title 7 CFR, Chapter XIV, Part 1401, § 1401.4; and PL 107-171.

³ Notifications G/AG/N/USA/43 of 5 February 2003 for year 1999, G/AG/N/USA/51 of 17 March 2004 for years 2000 and 2001, and G/AG/N/USA/60 of 8 October 2007 for years 2002 to 2005.

⁴ G/AG/N/USA/5 of 16 September 1996, G/AG/N/USA/25 of 11 March 1999, G/AG/N/USA/28 of 16 November 1999, G/AG/N/USA/37 of 5 October 2001, G/AG/N/USA/58 of 9 October 2007, and G/AG/N/USA/59 of 9 October 2007.

Measures	Legal Authority for the Measures (PL numbers refer to Public Laws identified in the appended table)
Commodity loan forfeit	<p>The Notifications identify: Section 801, Title VIII, PL 106-78; Section 812 and Section 844, PL 106-387.</p> <p>Canada has identified the following additional legal authorities: Title 7 CFR, Chapter XIV, Part 1405, Section 1405; PL 104-127, and PL 107-171.</p>
Commodity loan interest subsidy	<p>The Notifications identify: Section 1126, PL 105-277; Section 801, Subtitle A, Title VIII, PL 106-78; Section 203, PL 106-224; Section 204, PL 106-224, Section 812, PL 106-387; and PL 107-171.</p> <p>Canada has identified the following additional legal authorities: Title 7 CFR, Chapter XIV, Part 1401, § 1401.4; and PL 104-127.</p>
Commodity Purchases, Emergency Surplus Removals, and Funds for Strengthening Markets, Income and Supply (Section 32)	<p>The Notifications identify: Section 32, Agricultural Adjustment Act of 1935.</p> <p>Canada has identified the following additional legal authorities: Title 7 U.S.C., Chapter 26, Subchapter III, §612c; and PL 107-76.</p>
Cotton seed payments	<p>The Notifications identify: PL 105-277; Section 204, PL 106-224; Section 6, PL 107-25; and PL 108-7.</p> <p>Canada has identified the following additional legal authorities: PL 108-324; and PL 109-234.</p>
Countercyclical payments	<p>The Notifications identify: Title I, PL 107-171.</p>
Crop and revenue insurance subsidized by the Federal Crop Insurance Corporation	<p>No legal authority identified in the Notifications.</p> <p>Canada has identified the following legal authorities: PL 96-365; PL 103-354; PL 106-224; PL 109-97; and Title 7 U.S.C., Chapter 36, § 1516.</p>
Crop disaster payments	<p>The Notifications identify: Food Security Act of 1985; Disaster Assistance Acts of 1988 and 1989 and subsequently [<i>sic</i> in the notifications]; PL 106-78; PL 106-387; PL 108-07; PL 108-324; PL 110-28.</p> <p>Canada has identified the following additional legal authorities: Section 741, PL 107-76; PL 107-171; PL 109-234.</p>
Crop market loss assistance payments	<p>The Notifications identify: Section 802, Subtitle A, Title VIII, PL 106-78; PL 106-224.</p> <p>Canada has identified the following additional legal authorities: Section 801, Title VIII, PL 106-78; Section 1617, Subtitle F, Title I, PL 107-171.</p>
Dairy disaster payments	<p>The Notifications identify: PL 109-234.</p>
Dairy farmer indemnity program	<p>For years: 1999, 2000, 2001, 2002, 2004, 2005.</p> <p>Title 7 U.S.C., Chapter 17, § 450j & § 450k.</p>
Dairy hurricane indemnity	<p>The Notifications identify: PL 108-324.</p>
Dairy indemnities	<p>No legal authority identified in Notifications.</p>
Dairy market loss payment	<p>The Notifications identify: PL 106-78; Section 805, PL 106-387.</p>
Dairy market loss payment (MILC) (<i>includes also MILCX although not identified in Notifications</i>)	<p>No legal authority identified in Notifications.</p> <p>Canada has identified the following legal authorities: Section 1502, Subtitle E, Title I, PL 107-171; and Section 1101, Subtitle A, Title I, PL 109-171.</p>

Measures	Legal Authority for the Measures (PL numbers refer to Public Laws identified in the appended table)
Dairy production disaster assistance	The Notifications identify: Title VIII, PL 105-277; and Title II, PL 105-174
Direct payments	The Notifications identify: PL 107-171.
Disaster Reserve Assistance Program	No legal authority identified in Notifications.
Diversion payments	The Notifications identify: PL 99-198.
Emergency Feed Assistance Program	No legal authority identified in Notifications. Canada has identified the following legal authorities: Emergency Livestock Feed Assistance Act of 1998 (reauthorized by Title X, Subtitle B, Section 10104, PL 107-171); and Title 7 C.F.R. Part 1439.
Emergency Feed Program	No legal authority identified in Notifications.
Emergency loans for seed producers	The Notifications identify: PL 106-224. Canada has identified the following additional legal authorities: Section 10103, Subtitle B, Title X, PL 107-171.
Farm storage facility loans	The Notifications identify: Commodity Credit Corporation Charter Act.
Feed Indemnity Program	The Notifications identify: Section 32, Agricultural Adjustment Act of 1935.
Flood Compensation Program	The Notifications identify: PL 105-277. Canada has identified the following additional legal authority: Title II, Subtitle F, Section 257, PL 106-224.
Florida Citrus Disaster Program	The Notifications identify: Section 32, Agricultural Adjustment Act of 1935.
Florida Nursery Crop Disaster Program	The Notifications identify: Section 32, Agricultural Adjustment Act of 1935.
Florida Vegetable, Fruit and Tropical Fruit Disaster Program	The Notifications identify: Section 32, Agricultural Adjustment Act of 1935.
Florida hurricane disaster programs (includes the Florida Citrus, Nursery Crop, and Fruit and Vegetable and Tropical Fruit Disaster programs)	The Notifications identify: Section 32, Agricultural Adjustment Act of 1935.
Forage Assistance Program	The Notifications identify: 1988 Disaster Assistance Act; and PL 105-174.
Gulf hurricanes disaster program (this is a heading in the Notifications for Tree indemnity program, Feed indemnity program, Livestock indemnity program, and Hurricane indemnity program)	The Notifications identify: Section 32, Agricultural Adjustment Act of 1935
Hard White Wheat Incentive Program	For years: 2004, 2005. Section 1616, Subtitle F, Title I, PL 107-171.
Hard white wheat payments	The Notifications identify: PL 107-171.
Hawaiian sugar transportation payments	No legal authority identified in the Notifications.

Measures	Legal Authority for the Measures (PL numbers refer to Public Laws identified in the appended table)
Hurricane Indemnity Program	The Notifications identify: Section 32, Agricultural Adjustment Act of 1935.
2005 Hurricanes Citrus, Fruit and Vegetable Disaster, Nursery and Tropical Fruit Programs	The Notifications identify: PL 109-234.
Irrigation and provision of power at subsidized rates to store and move irrigation water, related to Bureau of Reclamation projects in 17 Western states	<p>No legal authority identified in the Notifications.</p> <p>Canada has identified the following legal authorities: Reclamation Act of 1902; Reclamation Projects Act of 1939 as amended; Marine Protection Research and Sanctuaries Act of 1972 - Section 103; Reclamation Reform Act of 1982 and other acts codified in Title 43 U.S.C., Chapter 12 (particularly subchapter X thereof); the Central Valley Project Improvement Act of 1992; contracts between Bureau of Reclamation and water districts; Army Corps of Engineers Statutory Authorities (Rivers and Harbors Act of 1899; Water Resources Development Acts of 1986, 1988, 1990, 1992, 1996, 1999, 2000; Title 33 U.S.C. Chapter 36); and Section 404, Clean Water Act.</p>
Livestock assistance program	<p>The Notifications identify: PL 108-07; and PL 108-324.</p> <p>Canada has identified the following additional legal authorities: Section 32 of the Agricultural Adjustment Act of 1935; Title I, Subtitle C, Section 132, PL 106-224; PL 104-127; Title IX, Section 9002, PL 110-28.</p>
Livestock compensation payments	The Notifications identify: PL 110-28.
Livestock compensation program	The Notifications identify: Section 32, Agricultural Adjustment Act of 1935; and PL 108-07.
Livestock feed assistance	<p>For years 1999, 2000, 2001, 2002, 2004, 2005.</p> <p>Section 32 of the Agricultural Adjustment Act of 1935; Title V, Agricultural Act of 1970, as amended; PL 104-127; Title VIII, Subtitle A, PL 106-78; Section 806, PL 106-387; PL 108-07; PL 108-324; Title 7 U.S.C., Chapter 35A, Subchapter V; and Title 7 C.F.R., Chapter XIV, Part 1439.</p>
Livestock Hurricane Programs	The Notifications identify: PL 109-234.
Livestock indemnity payments	The Notifications identify: PL 110-28.
Livestock Indemnity Program	<p>The Notifications identify: Section 32, Agricultural Adjustment Act of 1935; PL 105-18; PL 105-119; PL 106-31; PL 105-86; PL 106-78.</p> <p>Canada has identified the following additional legal authorities: PL 110-28.</p>
Livestock Pilot Programs	<p>For years: 2000, 2001, 2002, 2004, 2005.</p> <p>Section 132, Subtitle C, PL 106-224.</p>
Loan Deficiency Payments	<p>The Notifications identify: Title I, Subtitle C, PL 104-127; Section 812, PL 106-387; PL 107-171.</p> <p>Canada has identified the following additional legal authorities: Section 801, Title VIII, PL 106-78; Subtitle C, PL 104-127.</p>
Loan Deficiency Payments for Unshorn Pelts	<p>For years: 2002, 2004, 2005.</p> <p>Section 1205, PL 107-171.</p>
Market loss payments (<i>identified for apples and for cranberries</i>)	The Notifications identify: PL 106-387; Section 741, PL 107-76; and Sections 10105 and 10106, PL 107-171.

Measures	Legal Authority for the Measures (PL numbers refer to Public Laws identified in the appended table)
Market loss payments (<i>identified for mohair and for wool</i>)	The Notifications identify: Section 204, Title II, PL 106-224; Section 814, PL 106-387; and Section 5, PL 107-25.
Market loss payments (<i>identified for peanuts</i>)	The Notifications identify: Section 803, Title VIII, PL 106-78; Section 204, PL 106-224; and Section 3, PL 107-25.
Market loss payments (<i>identified for potatoes</i>)	Notifications include only reference to AMS News Release No. 078-01, April 2001.
Market loss payments (<i>identified for tobacco</i>)	The Notifications identify: Section 803, Title VIII, PL 106-78; Section 204, PL 106-224; Section 4, PL 107-25; PL 107-76; and PL 108-07.
Marketing loan gains	The Notifications identify: Title I, Subtitle C, PL 104-127; Section 812, PL 106-387. Canada has identified the following additional legal authorities: Title I, PL 107-171; Title I, PL 104-127.
Marketing loan payments	No legal authority identified in Notifications. Canada has identified the following legal authorities: Subtitle C, Title I, PL 104-127; and Subtitle B, Title I, PL 107-171.
Marketing loans	No legal authority identified in Notifications. Canada has identified the following legal authority: Title I, PL 104-127.
Michigan fire blight tree assistance program	The Notifications identify: PL 108-83.
Milk Income Loss Contracts (MILC)	The Notifications identify: PL 107-171.
Multi-year crop disaster payments	The Notifications identify: Section 1102, PL 105-277.
Net Federal budget outlays for grazing livestock on Federal Land	No legal authority identified in Notifications.
Noninsured Crop Disaster Assistance Program (NAP)	The Notifications identify: PL 103-354; and PL 106-224. Canada has identified the following additional legal authority: PL 104-127.
Non-recourse loan and loan-related payments	The Notifications identify: Title I, Subtitle C, PL 104-127; and PL 107-171. Canada has identified the following additional legal authority: Section 812, PL 106-387.
Nonrecourse Marketing Assistance Loans and Loan Deficiency Payments	For 1999, 2000, 2001, 2002, 2004, 2005. Subtitle C, Title I, PL 104-127; Section 812, PL 106-387; and PL 107-171.
Non-recourse program (<i>identified for honey</i>)	The Notifications identify: Section 812, PL 106-387; and PL 107-171
Northeast dairy compact	The Notifications identify: Title I, Subtitle D, Chapter 1, PL 104-127.
Northeast dairy compact benefit	The Notifications identify: Title I, Subtitle D, Chapter 1, PL 104-127.
Oilseed payments	The Notifications identify: Title I, Subtitle C, PL 104-127; Section 804, Subtitle A, Title VIII, PL 106-78; Section 202, PL 106-224; and Section 2, PL 107-25.
Pasture Recovery Program	The Notifications identify: PL 106-78.

Measures	Legal Authority for the Measures (PL numbers refer to Public Laws identified in the appended table)
Payments in Lieu of Loan Deficiency Payments for Grazed Acreage	For years: 2002, 2004, 2005. Section 1206, Subtitle B, Title I, PL 107-171.
Price support/quota (<i>identified for dairy</i>)	No legal authority identified in Notifications. Canada has identified the following legal authorities: Chapter 1, Subtitle D, Title I, PL 104-127; Subtitle E, Title I, PL 107-171, and Title 7 U.S.C., Chapter 26, Subchapter III, § 627.
Price support/quota (<i>identified for peanuts</i>)	No legal authority identified in Notifications. Canada has identified the following legal authority: Chapter 2, Subtitle D, Title I, PL 104-127.
Price support/quota (<i>identified for sugar</i>)	No legal authority identified in Notifications. Canada has identified the following legal authorities: Chapter 2, Subtitle D, Title I, PL 104-127; and Subtitle D, Title I, PL 107-171.
Production Flexibility Contract Payments	The Notifications identify: PL 104-127.
Quality loss payments	The Notifications identify: PL 106-387.
Recourse Loans for High Moisture Feed Grains and Seed Cotton	For years: 1999, 2000, 2001, 2002, 2004, 2005. Title I, Subtitle C, Section 137, PL 104-127; and Title I, Subtitle B, Section 1209, PL 107-171.
Recourse loans (<i>identified for honey</i>)	The Notifications identify: Section 801, Title VIII, PL 106-78; and Section 204, PL 106-224.
Recourse loans (<i>identified for mohair</i>)	The Notifications identify: Section 1126, PL 105-277; and Section 801, Subtitle A, Title VIII, PL 106-78.
Rio Grande water loss assistance program	The Notifications identify: PL 108-7.
Section 32 Disaster Assistance, January 2006, distributed through the Hurricane Indemnity Program (HIP), the Tree Indemnity Program (TIP), the Livestock Indemnity Program (LIP), and the Feed Indemnity Program (FIP)	The Notifications identify: Section 32, Agricultural Adjustment Act of 1935.
Special Competitive Provisions for Extra Long Staple Cotton	Section 1208, Subtitle B, Title I, PL 107-171.
Special Marketing Loan Provisions for Upland Cotton	Section 1207, Subtitle B, Title I, PL 107-171.
Specialty/Nursery crops hurricane disaster program	The Notifications identify: PL 109-234.
State credit programs	No legal authority identified in Notifications.
Storage payments	The Notifications identify: Subtitle F, Title I, PL 104-127; and PL 107-171.
Sugar beet disaster program	The Notifications identify: PL 108-7.
Sugar cooperative payment	The Notifications identify: Section 822, PL 106-387.

Measures	Legal Authority for the Measures (PL numbers refer to Public Laws identified in the appended table)
Sugarcane disaster payments	The Notifications identify: PL 109-234. Canada has identified the following additional legal authority: PL 108-07.
Sugarcane hurricane loss payments	The Notifications identify: PL 108-324.
Sugarcane hurricane program	The Notifications identify: PL 108-7.
Tobacco quota buyout	The Notifications identify: Title VI, PL 108-357.
Trade adjustment assistance	The Notifications identify: PL 107-171; and PL 107-210.
Tree Assistance Program	The Notifications identify: 1988 Disaster Assistance Act and subsequent disaster assistance acts; PL 105-174; PL 108-83; PL 108-324; PL 109-234. Canada has identified the following additional legal authorities: Subtitle C, Title X, PL 107-171; and Division A and Division H, PL 108-199.
Tree assistance program (disaster assistance)	The Notifications identify: PL 108-324; and PL 109-234.
Tree Indemnity Program	The Notifications identify: Section 32, Agricultural Adjustment Act of 1935.
User marketing payments	No legal authority identified in Notifications. Canada has identified the following legal authorities: Section 136, Title I, PL 104-127; and Title I, PL 107-171.
Various additional emergency programs, including for crops, feed, and livestock	For years: 1999, 200, 2001, 2002, 2004, 2005. Section 32 of the Agricultural Adjustment Act of 1935; PL 105-174; PL 105-277; PL 106-31; PL 106-78; PL 106-113; PL 106-224; PL 106-246; PL 106-387; PL 107-20; PL 107-25; PL 107-76; PL 107-171; PL 107-206; PL 108-7; PL 108-83; PL 108-199; PL 108-324; PL 109-234; and PL 110-28.
Warehouse disaster payments	The Notifications identify: Section 803, PL 106-78; and Appendix E, Chapter 1, PL 106-113.