

**CANADA - MEASURES RELATING TO EXPORTS OF WHEAT
AND TREATMENT OF IMPORTED GRAIN**

Communication from the United States

The following communication, dated 27 June 2003, from the Permanent Mission of the United States to the Permanent Mission of Canada and to the Chairman of the Dispute Settlement Body, is circulated at the request of the United States.

My authorities have instructed me to seek Canada's cooperation in following up on the "Preliminary Ruling on the Panel's Jurisdiction under Article 6.2 of the DSU", issued by the Panel on 25 June 2003 ("the Article 6.2 ruling") in *Canada – Measures Relating to Exports of Wheat and Treatment of Imported Grain* (WT/DS276).

In response to the Article 6.2 Ruling, the United States intends to proceed in the manner suggested by the Panel in the final paragraph of that ruling:

[W]e wish to emphasise once again that disputing parties are required, under the provisions of Article 3.10 of the DSU, to engage in dispute settlement procedures "in good faith in an effort to resolve the dispute." Accordingly, should the United States wish to see a panel address the substance of its Article XVII claim promptly, we believe that the procedures of the DSU are sufficiently flexible, if adhered to in good faith by both disputing parties, to allow the United States to do so. Thus, we consider that, in working with each other towards a resolution of this dispute, it may be possible for the parties to explore, and avail themselves of, the flexibility offered by the DSU. In our view, the options open to the parties include the possibility of the United States filing a new panel request and the parties agreeing to have a panel established at the first DSB meeting at which the panel request is on the agenda.⁶⁴ The Panel, for its part, stands ready to assist the parties in their efforts to reach a fair, prompt and effective resolution of this dispute.

⁶⁴ Without taking a position on this issue, we note that the provisions of Article 9.3 of the DSU may also be of interest to the parties.

As the Panel suggests, the United States does indeed wish to see a panel address the substance of its Article XVII claim regarding Canada's laws and regulations promptly. Given that Canada, as the responding Party, took the unusual step of asking the Director General to compose the panel, we believe that Canada shares this view. We also agree with the Panel that Article 9.3 of the DSU is of interest here since in the interests of efficiency for the parties, the Panel and the Secretariat all of the US claims should proceed on the same track and before the same panel.

Accordingly, we will shortly be filing a revised panel request that responds to the Article 6.2 Ruling, and will request a meeting of the Dispute Settlement Body to consider the request. As suggested in the Article 6.2 Ruling, we hope Canada will agree to have the panel established at the first DSB meeting at which the request will appear on the agenda. We would appreciate Canada's early confirmation that it will agree to do so.

I would also like to take this occasion to inform you that the United States will shortly request under Article 12.12 of the DSU that the Panel suspend the proceedings in WT/DS276 for a brief period to allow the parties time to work together to respond to the Article 6.2 Ruling.

We stand ready to cooperate with you on these matters.
