

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

Second Recourse to Article 21.5 of the DSU
by New Zealand and the United States

Notification of an Appeal by Canada
under paragraph 4 of Article 16 of the Understanding on Rules
and Procedures Governing the Settlement of Disputes ("DSU")

The following notification, dated 23 September 2002, sent by Canada to the Dispute Settlement Body ("DSB"), is circulated to Members. This notification also constitutes the Notice of Appeal, filed on the same day with the Appellate Body, pursuant to the *Working Procedures for Appellate Review*.

Pursuant to paragraph 4 of Article 16 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (the "DSU") and Rule 20 of the Working Procedures for Appellate Review, the Government of Canada hereby notifies its decision to appeal certain issues of law covered in the Panel report on *Canada – Measures Affecting the Importation of Milk and the Exportation of Dairy Products, Second Recourse to Article 21.5 of the DSU by New Zealand and the United States* (WT/DS103/RW2 and WT/DS/113/RW2) and certain legal interpretations developed by the Panel.

The Government of Canada seeks review of the Panel's finding that the Canadian measures in question constitute an export subsidy within the meaning of Article 9.1(c) and, in the alternative, Article 10.1 of the *Agreement on Agriculture*. With respect to Article 9.1(c) of the *Agreement on Agriculture*, Canada seeks review of the Panel's finding that commercial export milk sales constitute payments that are financed by virtue of governmental action. With respect to Article 10.1 of the *Agreement on Agriculture*, Canada seeks review of the Panel's finding that commercial export milk sales constitute export subsidies within the meaning of Articles 1(e) and 10.1 of the *Agreement on Agriculture*. Canada also seeks review of the Panel's findings concerning that interpretation and application of Article 10.3 of the *Agreement on Agriculture*. The above-noted findings are in error and are based on erroneous findings on issues of law and on related legal interpretations with respect to the interpretation and application of these Articles.

The Government of Canada respectfully requests that the Appellate Body reverse the findings and conclusions of the Panel and modify the recommendations and rulings of the Panel accordingly.
