

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

Additional Understanding between Canada and New Zealand  
Regarding Procedures under Articles 21 and 22 of the DSU

The following communication, dated 18 December 2001, from the Permanent Mission of Canada and the Permanent Mission of New Zealand to the Chairman of the Dispute Settlement Body, is circulated at the request of these delegations.

Pursuant to paragraph 14 of the Understanding of 21 December 2000 (WT/DS113/14, "the Understanding"), Canada and New Zealand would like to inform the DSB that they have agreed to the following additional procedures:

- 1 In view of the fact that the Appellate Body in its report of 3 December 2001 (WT/DS113/AB/RW, WT/DS103/AB/RW) was unable to rule on the consistency or inconsistency of the Canadian measures with Canada's obligations under the covered agreements as referred to in WT/DS113/16 and in view of New Zealand's request for the establishment of a second compliance panel under DSU Article 21.5 (WT/DS113/23) in relation to the Canadian measures, Canada and New Zealand agree to request that the arbitration requested by Canada under Article 22.6 (WT/DS113/18) remain suspended until:
  - (a) the DSB finds that Canada has failed to comply with the recommendations and rulings of the DSB or that the measures taken by Canada to comply with the recommendations and rulings of the DSB are inconsistent with the covered agreements as referred to in the second Article 21.5 compliance panel request. In this event, the arbitrator will automatically resume its work. The parties will cooperate to enable the arbitrator to circulate its report within 60 days of the resumption of its work;
  - or
  - (b) the DSB finds that Canada has complied with the recommendations and rulings of the DSB and that the measures taken by Canada to comply with the recommendations and rulings of the DSB are not inconsistent with the covered agreements as referred to in the second Article 21.5 compliance panel request. In this event, New Zealand will withdraw its request under Article 22.2 of the DSU, thereby terminating the arbitration procedure.
- 2 Paragraphs 2-6 and 12-15 of the Understanding will continue to apply *mutatis mutandis* to the further Article 21.5 panel and Article 22.6 arbitration proceedings relating to this matter, subject to the following modification:

Following establishment of the second compliance panel in accordance with paragraph 2 of the Understanding, New Zealand will request that, with the exception of all matters relating to Panel composition, the work of the Panel be suspended pursuant to Article 12.12 of the DSU until 18 February 2002.

(s.) H.E. Mr. Sergio Marchi  
(Permanent Representative)  
For Canada

(s.) Mr. Mark Sinclair  
(Deputy Permanent Representative)  
For New Zealand

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