

Agreement”) concerning measures of the Government of Canada relating to the export of wheat and to the treatment of imported grain. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept comments received throughout the course of the dispute settlement proceedings, comments should be received on or before August 22, 2003, to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted either (i) electronically, to fr0078@ustr.gov, with “Canada-Wheat Dispute” in the subject line, or (ii) by fax, to Sandy McKinzy at 202-395-3640 with a confirmation copy sent electronically to the e-mail address above.

FOR FURTHER INFORMATION CONTACT: William Busis, Associate General Counsel, (202) 395-3150; or Sharon Bomer Lauritsen, Deputy Assistant USTR for Agricultural Affairs, (202) 395-6127.

SUPPLEMENTARY INFORMATION: Pursuant to section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)), USTR is providing notice that, at the request of the United States, the WTO Dispute Settlement Body (DSB) has established panels to examine Canadian measures relating to exports of wheat and treatment of imported grain. The three persons that compose the panels have been selected pursuant to the procedures established in the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes.

The United States panel requests explained that the United States considers that certain measures of the Government of Canada are inconsistent with Canada’s obligations under the General Agreement on Tariffs and Trade 1994 (“GATT 1994”) and the Agreement on Trade-Related Investment Measures (“TRIMs Agreement”):

(1) *Canadian Wheat Exports:* The Government of Canada has established the Canadian Wheat Board (“CWB”), and has granted to this enterprise exclusive and special privileges. These exclusive and special privileges include the exclusive right to purchase western Canada wheat for export and domestic human consumption at a price determined by the Government of Canada and the CWB; the exclusive right to sell western Canadian wheat for export and domestic human consumption; and government guarantees of the CWB’s financial operations, including the CWB’s borrowing, the CWB’s credit sales to

foreign buyers, and the CWB’s initial payments to farmers.

The laws, regulations and actions of the Government of Canada and the CWB appear to be inconsistent with the obligations of the Government of Canada under Article XVII of the GATT 1994. In particular, the laws, regulations and actions of the Government of Canada and the CWB related to exports of wheat appear to be:

- Inconsistent with paragraph 1(a) of Article XVII of the GATT 1994, pursuant to which the Government of Canada has undertaken that the CWB, in its purchases or sales involving wheat exports, shall act in a manner consistent with the general principles of non-discriminatory treatment prescribed in the GATT 1994; and

- Inconsistent with paragraph 1(b) of Article XVII of the GATT 1994, pursuant to which the Government of Canada has undertaken that the CWB shall make such purchases or sales solely in accordance with commercial considerations and shall afford the enterprises of other WTO Members adequate opportunity, in accordance with customary business practice, to compete for such purchases or sales.

The apparent inconsistency with Canada’s obligations under Article XVII of the GATT 1994 includes the failure of the Government of Canada to ensure that the CWB makes such purchases or sales in accordance with the requirements set forth in paragraphs 1(a) and 1(b) of Article XVII.

(2) *Treatment of Imported Grain:* With regard to the treatment of grain that is imported into Canada, Canadian measures discriminate against imported grain, including grain that is the product of the United States.

- Under the Canada Grain Act and Canadian grain regulations, imported grain must be segregated from Canadian domestic grain throughout the Canadian grain handling system; imported grain may not be received into grain elevators; and imported grain may not be mixed with Canadian domestic grain being received into, or being discharged out of, grain elevators. These measures accord to imported grain less favorable treatment than that accorded to like Canadian grain, and thus appear to be inconsistent with the obligations of Canada under Article III:4 of the GATT 1994 and Article 2 of the TRIMs Agreement.

- Canadian law caps the maximum revenues that railroads may receive on the shipment of Canadian domestic grain, but not revenues that railroads may receive on the shipment of Canadian domestic grain, but not revenues that railroads may receive on

the shipment of imported grain. In addition, in allocating railcars used for the transport of grain, Canada provides a preference for domestic grain over imported grain. These measures concerning rail transportation accord to imported grain less favorable treatment than that accorded to like domestic grain, and thus appear to be inconsistent with the obligations of Canada under Article III:4 of the GATT 1994 and Article 2 of the TRIMs Agreement.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised by the United States in this dispute. Persons submitting comments may either send one copy by fax to Sandy McKinzy at 202-395-3640, or transmit a copy electronically to fr0078@ustr.gov, with “Canada-Wheat Dispute” in the subject line. For documents sent by fax, USTR requests that the submitter provide a confirmation copy electronically. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not a separate files.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly marked “BUSINESS CONFIDENTIAL” at the top and bottom of the cover page and each succeeding page of the submission.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as “SUBMITTED IN CONFIDENCE” at the top and bottom of the cover page and each succeeding page of the submission; and