WORLD TRADE ORGANIZATION

WT/DS384/1
G/L/874
G/TBT/D/33
G/SPS/GEN/890
G/RO/D/6
4 December 2008

(08-5961)

Original: English

UNITED STATES – CERTAIN COUNTRY OF ORIGIN LABELLING (COOL) REQUIREMENTS

Request for Consultations by Canada

The following communication, dated 1 December 2008, from the delegation of Canada to the delegation of the United States and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

Pursuant to Articles 1 and 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU),* Article XXII of the *General Agreement on Tariffs and Trade,* 1994 (GATT 1994), Article 14 of the *Agreement on Technical Barriers to Trade* (TBT Agreement), Article 11 of the *Agreement of Sanitary and Phyto-Sanitary Measures* (SPS Agreement) and Article 7 of the *Agreement on Rules of Origin*, the Government of Canada hereby requests consultations with the United States of America concerning the mandatory country of origin labelling (COOL) provisions in the *Agricultural Marketing Act of 1946* as amended by the *2008 Farm Bill (Food, Conservation and Energy Act, 2008*) and as implemented through the Interim Final Rule of 28 July 2008. These include the obligation to inform consumers at the retail level of the country of origin in respect of covered commodities, including beef and pork. The eligibility for a designation of a covered commodity as exclusively having a US origin can only be derived from an animal that was exclusively born, raised and slaughtered in the United States. This would exclude such a designation in respect of beef or pork derived from livestock that is exported to the United States for feed or immediate slaughter.

The mandatory COOL provisions appear to be inconsistent with the United States' obligations under the WTO Agreement, including:

(i) Articles III:4, IX:4, X:3 of GATT 1994;

(ii) Article 2 of the TBT Agreement, or, in the alternative, Articles 2, 5 and 7 of the SPS Agreement; and

(iii) Article 2 of the *Agreement on Rules of Origin*.

These violations appear to nullify or impair the benefits accruing to Canada under those Agreements. Moreover, these measures appear to nullify or impair the benefits accruing to Canada in the sense of Article XXIII:l(b) of GATT 1994.

./.

Canada reserves the right to raise additional claims and legal matters regarding the measures at issue during the course of consultations.

Canada looks forward to receiving the reply of the United States to this request and welcomes any suggestions that it might wish to make concerning the date on which these consultations could take place, and the location of the consultations.

____