



News Release

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CANADA AND THE UNITED STATES RELEASE FTA PANEL REPORT ON EXPORTS OF DURUM WHEAT

The Honourable Michael Wilson, Minister of Industry, Science and Technology and Minister for International Trade, and United States Trade Representative Michael Kantor announced today the release of a final report on Canadian durum wheat exports by a dispute resolution panel under the Canada-U.S. Free Trade Agreement (FTA).

The panel was established under Chapter 18 of the FTA in May 1992 at the request of the United States.

The panel was asked to interpret Article 701.3 of the FTA, which states: "Neither Party, including any public entity that it establishes or maintains, shall sell agricultural goods for export to the territory of the other Party at a price below the acquisition price of the goods plus any storage, handling or other costs incurred by it with respect to those goods."

The panel gave the following interpretation to Article 701.3, as applied to sales of durum wheat by the Canadian Wheat Board for export to the United States:

- 1) the acquisition price of the goods referred to in Article 701.3 includes only the Canadian Wheat Board's initial payment; or, in the event of an upward adjustment, the acquisition price for goods sold after the adjustment is the initial payment plus such adjustment;
- 2) only storage and handling charges paid by the Canadian Wheat Board (the seller) should be included in determining Article 701.3 costs;
- 3) Western Grain Transportation Act payments for rail shipments through Thunder Bay are excluded from the cost calculation required by Article 701.3;

- 4) where the Canadian Wheat Board is actually responsible for paying the cost of shipping durum wheat to the designated point in the United States or to a transfer elevator on the St. Lawrence Seaway for export to the United States, such costs must be taken into account; and
- 5) administrative costs were not intended to be included in the expression "any other costs incurred by it."

The panel also recommended that a binational working group be established under Article 1802.4 of the FTA to oversee periodic audits of durum wheat sales to the United States by the Canadian Wheat Board. In this regard, the panel recommended that a major international accounting company with offices in Canada be appointed to conduct annual audits.

The panel has determined that this approach respects commercial confidentiality while providing the best evidence to assess whether Canada has met its obligations under Article 701.3. The initial audit would be retrospective and would cover the period from January 1, 1989, to July 31, 1992. In addition to the annual audit, Canada has offered to provide semi-annual pricing data on an aggregate basis to the United States.

Chapter 18 of the FTA provides for the settlement of disputes arising from the interpretation or application of any provision of the Agreement.

The Canada-U.S. Trade Commission has 30 days (or such other period of time as it may agree) to consider the report and its recommendations, with a view to reaching a resolution that is satisfactory to both countries.

- 30 -

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