

[BILLING CODE 3190-W9-P]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS384 and WTO/DS386]

WTO Dispute Settlement Proceeding Regarding United States – Certain Country of Origin Labeling Requirements

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (“USTR”) is providing notice that the United States received additional requests for consultations under the *Marrakesh Agreement Establishing the World Trade Organization* (“WTO Agreement”) concerning certain mandatory country of origin labeling (COOL) requirements from Canada and Mexico in separate letters dated May 7, 2009. Those requests may be found at www.wto.org contained in documents designated as WT/DS384/1/Add.1 for Canada and WT/DS386/1/Add.1 for Mexico. USTR invites written comments from the public concerning the issues raised in these disputes.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before July 1, 2009, to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted electronically to www.regulations.gov, docket number USTR-2009-0004. If you are unable to provide submissions by www.regulations.gov, please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission. If (as explained below), the comment contains confidential information, then the comment should be submitted by fax only to Sandy McKinzy at (202)395-3640.

FOR FURTHER INFORMATION CONTACT: Priti Seksaria Agrawal, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, N.W., Washington, D.C. 20508, (202) 395-3150.

SUPPLEMENTARY INFORMATION: USTR is providing notice that consultations have been requested pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* (“DSU”). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within nine months after it is established.

Major Issues Raised by Canada

On December 1, 2008, Canada requested consultations regarding U.S. mandatory COOL, and consultations were held on December 16, 2008. In its December 1, 2008 consultations request, Canada challenged the COOL provisions in the *Agricultural Marketing Act of 1946*, as amended by the *Food, Conservation, and Energy Act, 2008* (2008 Farm Bill), and implemented in the U.S. Department of Agriculture (“USDA”) Interim Final Rule published on August 1, 2008. In Canada’s May 7, 2009 letter requesting further consultations, Canada noted that the Interim Final Rule had been replaced by a USDA Final Rule published on January 15, 2009, and that on February 20, 2009, the Secretary of Agriculture issued a letter regarding implementation of the Final Rule.

Canada alleges that the U.S. measures appear to be inconsistent with the *General Agreement on Tariffs and Trade 1994* (“GATT 1994”), Articles III:4, IX:2, IX:4, and X:3, the *Agreement on Technical Barriers to Trade* (“TBT Agreement”), Article 2 or in the alternative, the *Agreement on the Application of Sanitary and Phytosanitary Measures* (“SPS Agreement”), Articles 2, 5, and 7, and the *Agreement on Rules of Origin*, Article 2. Additionally, Canada alleges these violations nullify or impair the benefits accruing to Canada under those Agreements and further appear to nullify or impair the benefits accruing to Canada in the sense of GATT 1994, Article XXIII:1(b).

Major Issues Raised by Mexico

On December 17, 2008, Mexico requested consultations regarding U.S. mandatory COOL, and consultations were held on February 27, 2009. In its December 17, 2008 consultations request, Mexico challenged the COOL provisions in the *Agricultural Marketing Act of 1946*, as amended by the *Farm, Security, and Rural Investment Act of 2002* and the *Food, Conservation, and Energy Act, 2008*, and implemented by the regulations published in 7 C.F.R. part 60 and 65. In Mexico’s May 7, 2009 letter requesting further consultations, it explained that this request concerns related measures and amendments adopted by the United States after Mexico’s initial request for consultations, including USDA’s Final Rule on COOL published on January 15, 2009 and the Secretary of Agriculture’s letter on COOL dated February 20, 2009.

Mexico alleges that the U.S. measures appear to be inconsistent with the GATT 1994, Articles

III, IX, and X, the TBT Agreement, Article 2 and 12 or in the alternative, the SPS Agreement, Articles 2, 5, and 7, and the *Agreement on Rules of Origin*, Article 2. Additionally, Mexico alleges these violations nullify or impair the benefits accruing to Mexico under those Agreements and further appear to nullify or impair the benefits accruing to Mexico in the sense of GATT 1994, Article XXIII:1(b).

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to www.regulations.gov docket number USTR-2009-0004. If you are unable to provide submissions by www.regulations.gov, please contact Sandy McKinzy at (202)395-9483 to arrange for an alternative method of transmission.

To submit comments via www.regulations.gov, enter docket number USTR-2009-0004 on the home page and click “go”. The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting “Notice” under “Document Type” on the left side of the search-results page, and click on the link entitled “Send a Comment or Submission.” (For further information on using the www.regulations.gov website, please consult the resources provided on the website by clicking on “How to Use This Site” on the left side of the home page.)

The www.regulations.gov site provides the option of providing comments by filling in a “General Comments” field, or by attaching a document. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type “See attached” in the “General Comments” field.

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 designated as such and the submission must be marked “BUSINESS CONFIDENTIAL” at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395-3640. A non-confidential summary of the confidential information must be submitted to www.regulations.gov. The non-confidential summary will be placed in the docket and open to public inspection.

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 submitter believes that information or advice may qualify as such, the submitter –

- (1) Must clearly 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; and
- (3) Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax to Sandy McKinzy at (202) 395-3640. A non-confidential summary of the confidential information must be submitted to www.regulations.gov or by fax. The non-confidential summary will be placed in the docket and open to public inspection.

USTR will maintain a docket on this dispute settlement proceeding, accessible to the public. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, any non-confidential submissions, or non-confidential summaries of submissions, received from other participants in the dispute; the report of the panel; and, if applicable, the report of the Appellate Body.

Comments will be placed in the docket and open to public inspection pursuant to 15 C.F.R. § 2006.13, except confidential business information exempt from public inspection in accordance with 15 C.F.R. § 2006.15 or information determined by USTR to be confidential in accordance with 19 U.S.C. § 2155(g)(2). Comments open to public inspection may be viewed on the www.regulations.gov website.

Daniel Brinza,

Assistant United States Trade Representative

for Monitoring and Enforcement

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