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JAPAN - TAXES ON ALCOHOLIC BEVERAGES

Surveillance of Implementation of Recommendations and Rulings

Communication from Canada

The following communication, dated 17 January 1997, from the Permanent Mission of Canada to the Chairman of the Dispute Settlement Body, is circulated to Members.

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My authorities have requested that I contact you with regard to the 24 December 1996 letter from the US addressed to you requesting binding arbitration for the determination of the “reasonable period of time” for the implementation of the Dispute Settlement Body’s (DSB) recommendations concerning the dispute entitled “Japan - Taxes on Alcoholic Beverages”.

As you are aware, Canada was a complaining party in this dispute. Our concerns regarding the inconsistency of the Japanese measures were elaborated in our submissions to the Panel as well as to the Appellate Body. Therefore, Canada has a particular interest in ensuring that Japan implements the DSB’s recommendations in an effective and meaningful manner.

In the light of the timeframes outlined in the Understanding on Rules and Procedures Governing the Settlement of Disputes, we presume that the arbitrator has been chosen and that the arbitrator’s decision will be rendered shortly. Although the timeframe is short, Canada wants to make certain that it will have an opportunity to be heard by the arbitrator, if Canada deems it necessary. At this time, Canada does not intend to make a written submission to the arbitrator, however, after reviewing the submissions to be made by Japan, the US, or the EC, should the latter participate in the arbitration, we may consider it necessary to intervene (e.g. this could be done during the hearing, presuming there is one provided for in the process adopted). Without knowing the specific arbitration procedures to be adopted, you can understand it is difficult for us to be more precise with regard to this matter.

Notwithstanding the fact that the request for the arbitration was made by the US, the result of this arbitration proceeding will affect the implementation of the DSB recommendations concerning a dispute in which Canada was a complaining party. Canada’s approach with regard to this matter is to ensure that the arbitration process provides Canada with an opportunity to be heard, if necessary, allowing it to protect its interests as well as its WTO rights.