

BRAZIL - EXPORT FINANCING PROGRAMME FOR AIRCRAFT

Request for the Establishment of a Panel by Canada

The following communication, dated and received on 16 September 1996, from the Permanent Mission of Canada to the Chairman of the Dispute Settlement Body, is circulated at the request of that delegation.

On 18 June 1996, the Government of Canada requested consultations with the Government of Brazil concerning certain export subsidies granted under its Programa de Financiamento às Exportações ("PROEX") to foreign purchasers of Brazil's Embraer aircraft. In accordance with Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU"), that request was notified to the Dispute Settlement Body ("DSB") and the Committee on Subsidies and Countervailing Measures. The request was circulated to Members of the World Trade Organization on 21 June 1996 (WT/DS46/1).

The Brazilian measures in question include Brazilian Law 8.187 establishing PROEX, Resolution 2.224/95 of the Central Bank of Brazil, Order no. 15/96 and Regulation 368/95 of the Brazilian Ministry of State for Industry, Trade and Tourism. These measures provide for the payment of export subsidies through an interest rate "equalization" programme. The Government of Canada requested the consultations to address its concerns that these export subsidies were inconsistent with Brazil's obligations under the Agreement on Subsidies and Countervailing Measures (the "SCM Agreement") and the General Agreement on Tariffs and Trade 1994 ("GATT 1994").

Canada and Brazil held the consultations in Geneva on 22 July 1996 and 25 July 1996 with a view to reaching a satisfactory resolution of the matter. Unfortunately, the consultations failed to settle the dispute and there are no indications to suggest that further consultations are likely to be productive.

Pursuant to Article XXIII of the GATT 1994, Articles 4 and 30 of the SCM Agreement and Articles 4 and 6 of the DSU, Canada requests that a Panel be established at the next meeting of the DSB scheduled for 27 September 1996.

Canada requests that the Panel consider and find that:

- (a) the Interest Rate Equalization component of PROEX is inconsistent with the Agreement on Subsidies and Countervailing Measures, and in particular Article 3 thereof;

- (b) the Interest Rate Equalization component of PROEX is inconsistent with GATT 1994, and in particular Article XVI thereof; and
- (c) the operation and application of the Interest Rate Equalization component of PROEX otherwise nullifies or impairs the benefits accruing to Canada pursuant to the Agreement Establishing the World Trade Organization.

If the Panel finds that the Interest Rate Equalization System component of PROEX is inconsistent with Article 3 of the Agreement on Subsidies and Countervailing Measures, Canada also requests that the Panel recommend that the Interest Rate Equalization System component of PROEX, and all payments scheduled under the Interest Rate Equalization System component of PROEX, be terminated immediately pursuant to Article 4 of the Agreement on Subsidies and Countervailing Measures.

Canada requests that the Panel be established with the standard terms of reference set out in Article 7 of the DSU. Canada further requests that this request for the establishment of a Panel be inscribed on the agenda of the meeting of the DSB scheduled for 27 September 1996.