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JAPAN - TAXES ON ALCOHOLIC BEVERAGES

Mutually Acceptable Solution on Modalities for Implementation

The following communication, dated 15 July 1997, from the Permanent Mission of Japan and the Permanent Delegation of the European Commission, together with enclosures, is circulated to Members at the request of both delegations.

Please find attached the mutually acceptable solution between the EC and Japan, in the form of an exchange of letters, regarding the modalities for the implementation by Japan of the conclusions and recommendations adopted by the Dispute Settlement Body in the dispute "Japan - taxes on alcoholic beverages". We would be grateful if you could circulate this to WTO Members.

Enclosure 1: Letter from Minister of Finance, Tokyo, to Sir Leon Brittan, dated 16 December 1996

I have been making utmost efforts at domestic coordination in relation to the liquor tax issue so that Japan, as a responsible Member of the WTO, would fully implement the recommendations of the Panel and the Appellate Body. I now hasten to inform you that, as a result, the Tax Council of the ruling Liberal Democratic Party has today reached a conclusion on the liquor tax reform and the Outline of Tax Amendments containing this conclusion will be announced on 18 December.

As for the tax rate on whisky, we shall reduce it to¥ 409,000 per kilolitre (40 degrees of alcohol content), about 58 per cent less than the current rate through two stages of reduction on 1 October 1997 and 1 October 1998, namely within two fiscal years. We shall also increase the tax rate on shochu and liqueurs to the level of the current tax rate on spirits: the tax rate on shochu will be increased, in principle, within the same two stages as whisky to¥ 248,100 per kilolitre (25 degrees of alcohol content) and; the tax rate on liqueurs will be increased on 1 October 1997 up to¥ 119,088 per kilolitre (12 degrees of alcohol content). Taken all together, they would bring about an identical taxation on shochu, spirits and liqueurs in terms of tax rate per degree of alcohol content, and would result in the reduction of the tax differential between shochu and whisky to a veritable *de minimis* level of 1.03 times in terms of tax rates per degree of alcohol content. (See appendix.) However, as for shochu B, the tax rate adjustment will be completed with an additional three-year transitional period,

to end on 1 October 2001, in view of the effects on both consumers and producers of this extraordinary increase in the tax rate by as much as 2.4 times.

We will now follow required domestic procedures and will submit a draft amendment of the Liquor Tax Law which clearly stipulates the schedule I have just mentioned to the next ordinary session of the Diet to be convened in late January 1997, and will do our utmost to pass the draft amendment as quickly as possible.

I am confident that the implementation of this amendment will settle this issue between Japan and the EU.

APPENDIX

The Liquor Tax Rates

(Per kilolitre)

Categories	Degree of alcohol content	Current rates	Proposed amendments		
			1 Oct. 1997-30 Sept. 1998	1 Oct. 1998- 30 Sept. 2001	1 Oct. 2001-
Shochu A	25 degrees	(¥6,228) ¥155,700	(¥8,076) ¥201,900	(¥9,924) ¥248,100	→
Shochu B	25 degrees	(¥4,084) ¥102,100	(¥6,028) ¥150,700	(¥7,976) ¥199,400	(¥9,924) ¥248,100
Whiskies	40 degrees	(¥24,558) ¥982,300	(¥13,775) ¥551,000	(¥10,225) ¥409,000	→
Spirits	37 degrees	(¥9,927) ¥367,300	(¥9,924) ¥367,188	→	→
Liqueurs	12 degrees	(¥8,217) ¥98,600	(¥9,924) ¥119,088	→	→

Note: The rates in brackets are tax rates per kilolitre per degree of alcohol.

Enclosure 2: Letter from Minister of Finance, Tokyo, to Sir Leon Brittan, dated 18 December 1996

Further to my letter dated 16 December informing you of the amendment of the Liquor Tax Law, I am now writing with reference to the matter of tariff reduction of whisky and brandy which was discussed together with the amendment of the Liquor Tax Law in the consultations held in Singapore between the Government of Japan and the European Commission in response to the adoption of the reports issued by the Panel and the Appellate Body of the WTO. I hasten to inform you of the decision we have made today.

As for the tariff rates on whisky and brandy during the period from 1 October 1998 until 31 March 2002, we will take an autonomous measure to apply to the following items (1) the reduced tariff rates from the bound rates by the size indicated below (2):

(1) Bound rates

	2208.20-200	brandy (other)		
	1 April 1998 2001	1 April 1999	1 April 2000	1 April
¥	273.00/l. ¥	227.50/l. ¥	182.00/l. ¥	136.50/l.
	2208.30-032	whisky (other)		
	1 April 1998 2001	1 April 1999	1 April 2000	1 April
¥	205.80/l. ¥	171.50/l. ¥	137.20/l. ¥	102.90/l.

(2) Size of reduction

¥ 48.70 per litre from the bound rates

from 1 October 1998 to 31 March 2001

¥ 24.35 per litre from the bound rates

from 1 April 2001 to 31 March 2002

In order that the above-mentioned reductions will take effect from 1 October 1998, we will proceed to the required domestic procedures, and will submit a draft amendment of the relevant laws such as Custom Tariff Law to the Diet and will do our utmost to pass the draft amendment through the Diet.

I am confident that our recent measures including this amendment will entirely settle this liquor tax issue between Japan and the EU.

Enclosure 3: Letter from Sir Leon Brittan, Vice-President of the EC, to Minister for Foreign Affairs of Japan, dated 31 January 1997

The European Community has now completed its examination of the revised liquor tax

scheme that the Government of Japan proposes to implement as a response to the findings and conclusions of the WTO Panel Report on "Japan - Taxes on Alcoholic Beverages" as modified by the report of the Appellate Body adopted by the Dispute Settlement Body on 1 November 1996. This scheme and its implementation schedule were set out in respect of key alcoholic strengths for main market segments in the letter from Minister Mitsuzuka to me of 16 December 1996. Explanations received from the Japanese Government in subsequent contacts between our officials have clarified details of the scheme, notably the fact that the tax to be levied on liquors between certain ranges of alcoholic strength is not fixed per degree of alcohol but will instead be levied by means of a flat rate per litre of liquor. Annex 1 gives details of the revised tax system for each category of liquor.

The European Community has also examined the proposed reduced tariff rates from the bound rates set out in the letter from Minister Mitsuzuka to me of 18 December 1996 as compensation for the longer implementation period for the new taxation scheme for shochu B. Annex 2 gives details of these tariff rates.

The European Community hereby confirms that, on the basis of the above elements and the integral application of the additional measures outlined below, the Japanese proposals resolve the dispute on liquor tax between the European Community and Japan.

If the proposals are not implemented fully, the European Community reserves its rights to resort to dispute settlement under the WTO Agreements.

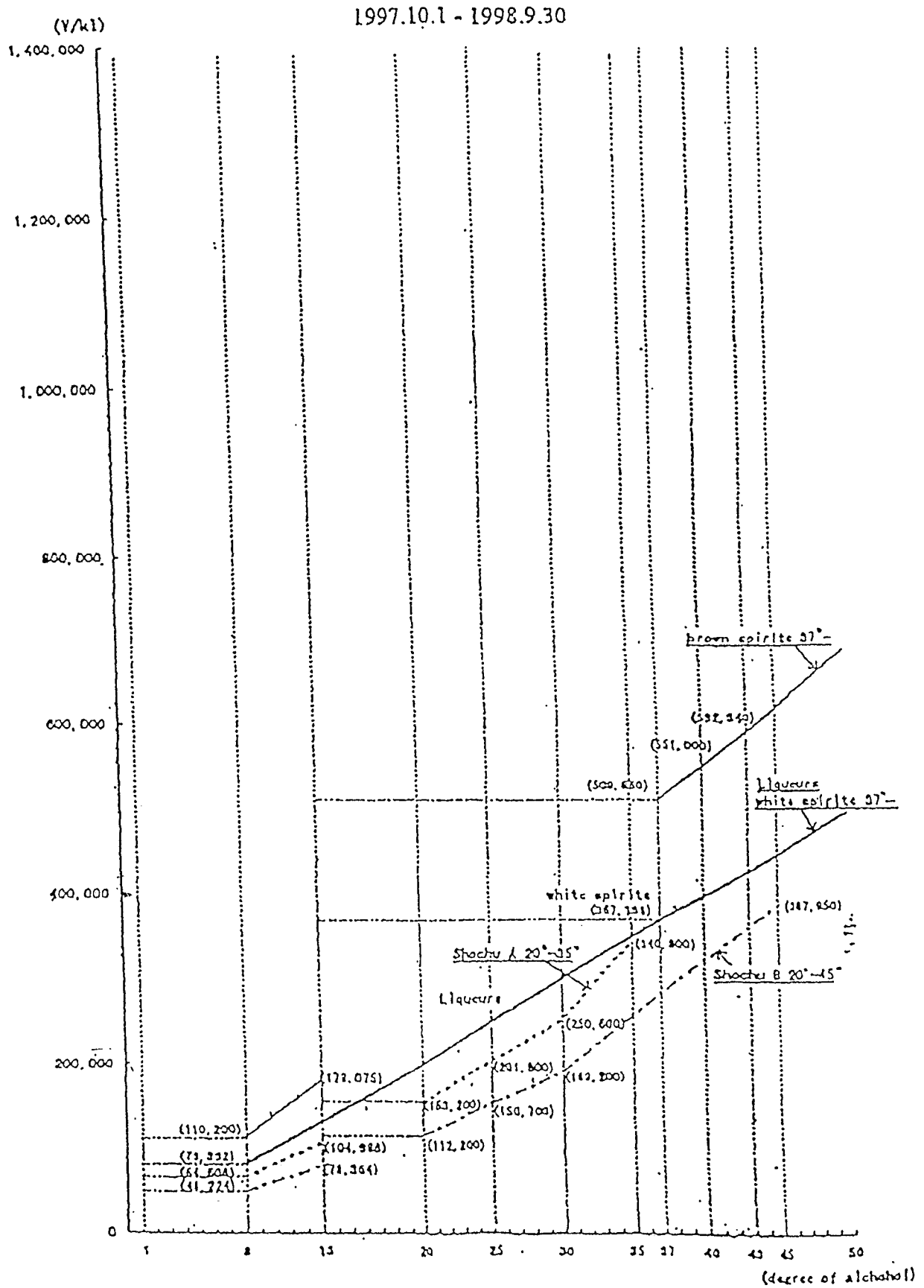
The additional measures are to be applied as follows:

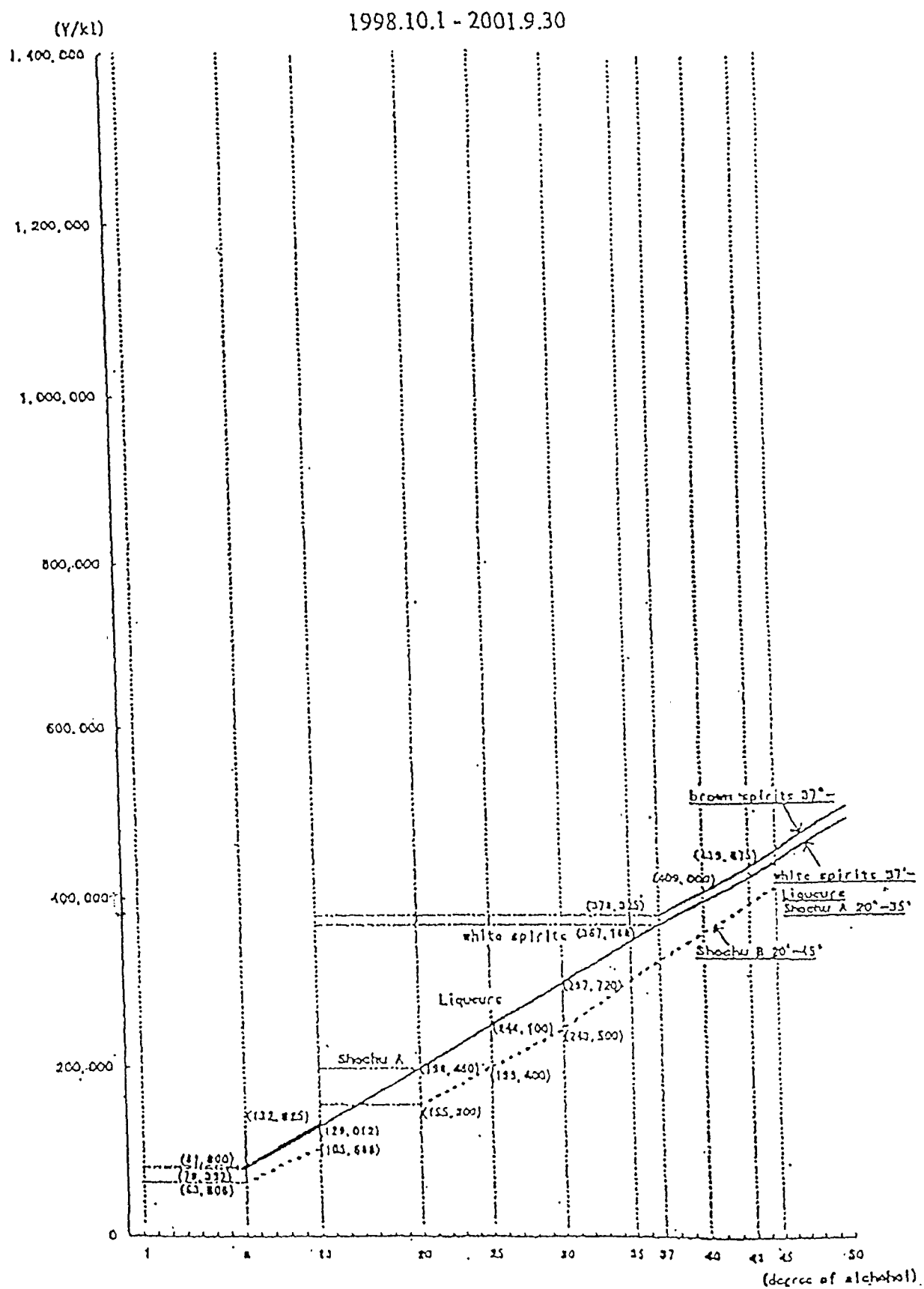
- The European Community will receive at least comparable tariff concessions to those which Japan may grant to the United States or Canada as a result of ongoing negotiations with these countries on compensation. In addition, in the case that Japan grants additional concessions to other complainants as a result of a decision by the WTO arbitrator, comparable concessions will be granted to the European Community.
- At the request of either party, consultations on the implementation or effects of any aspect of the revised tax scheme will be held expeditiously with a view to reaching a satisfactory solution. It is understood in this context that any discriminatory effects on European Community liquors resulting from the revised tax scheme will be corrected through appropriate adjustments to the tax structure within a reasonable time-period to remove such discriminatory effects. The European Community also reserves its rights to address such issues, if necessary, in the context of WTO dispute settlement.
- The current definitions of products will not be amended in such a way as to have adverse effects on EC exports. These definitions are those referred to in the WTO Panel report as well as those given to the European Commission in the course of the Commission's evaluation of the revised scheme (notably those referring to "mixed drinks") and will be the ones valid for the amended liquor tax law which Japan proposes to implement from 1 October 1997.

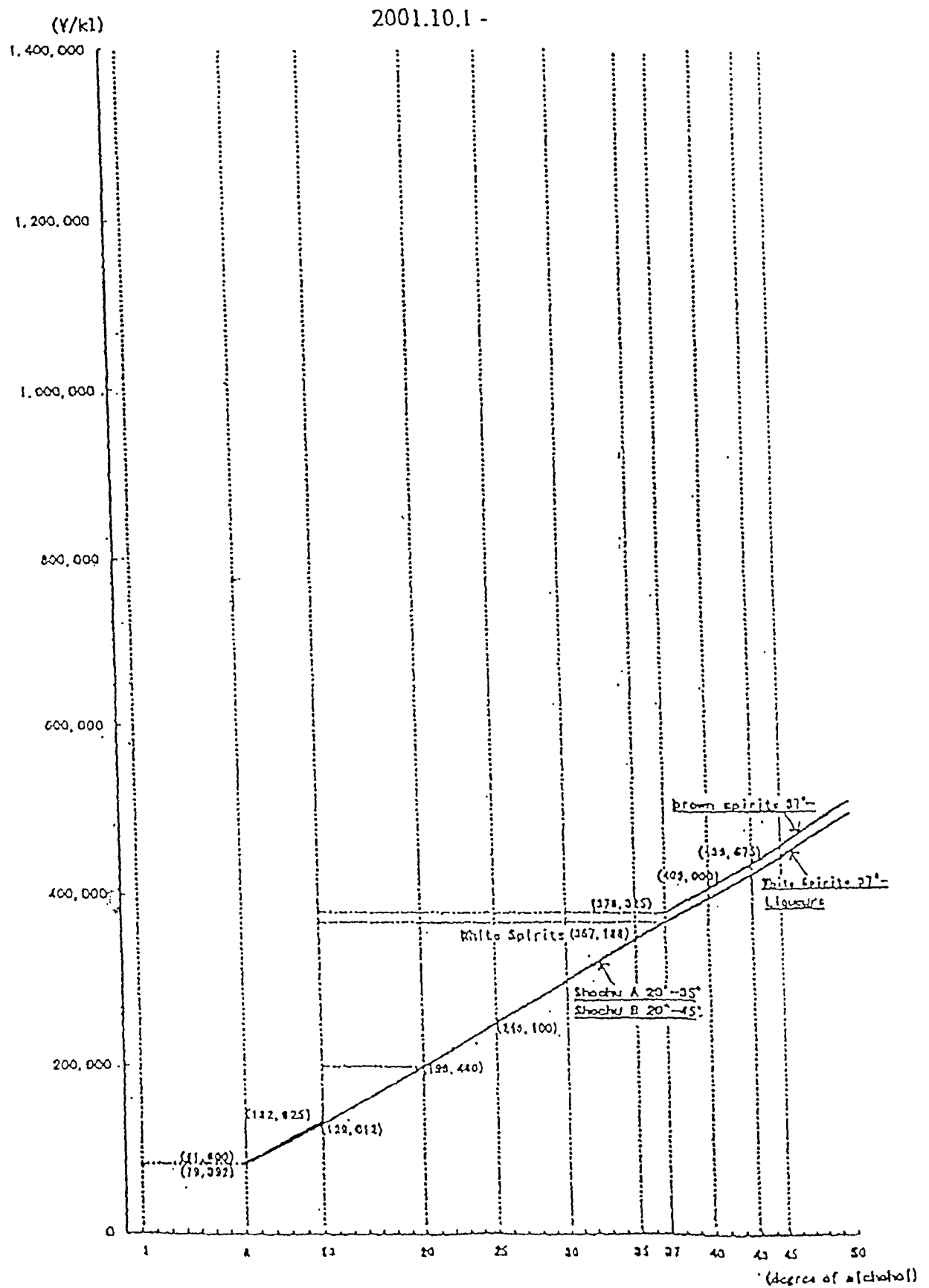
Furthermore it is jointly understood that acceptance by the European Community of the Japanese proposals to settle the dispute shall not be interpreted as in any way prejudging the position of the European Community in the WTO with regard to the definition of "*de minimis*" differentials, the reasonable time-period for implementation or the compatibility of those parts of the revised liquor tax

establishing flat rates per litre of liquor with the WTO ruling.

I would be grateful if you would confirm that the implementation of the above elements and measures, which constitute the means to resolve the dispute on liquor tax between the European Community and Japan, will be carried out in accordance with the provisions of this letter.







(1 October 1997-30 September 1998)

Figures for the Tax Per Degree of Alcohol for Each Category of Alcohol
at Different Alcoholic Strengths (At 1 Intervals)

Alcoholic strengths	Whisky Brandy	Spirits	Liqueur	Shochu A	Shochu B
1	(110,200)	(79,392)	(79,392)	(64,608)	(48,224)
2	(55,100)	(39,696)	(39,696)	(32,304)	(24,112)
3	(36,733)	(26,464)	(26,464)	(21,536)	(16,074)
4	(27,550)	(19,848)	(19,848)	(16,152)	(12,056)
5	(22,040)	(15,878)	(15,878)	(12,921)	(9,644)
6	(18,366)	(13,232)	(13,232)	(10,768)	(8,037)
7	(15,742)	(11,341)	(11,341)	(9,229)	(6,889)
8	13,775	9,924	9,924	8,076	6,028
9	13,775	9,924	9,924	8,076	6,028
10	13,775	9,924	9,924	8,076	6,028
11	13,775	9,924	9,924	8,076	6,028
12	13,775	9,924	9,924	8,076	6,028
13	(39,204)	(28,245)	9,924	(11,784)	(8,630)
14	(36,404)	(26,227)	9,924	(10,942)	(8,014)
15	(33,977)	(24,479)	9,924	(10,213)	(7,480)
16	(31,853)	(22,949)	9,924	(9,575)	(7,012)
17	(29,980)	(21,599)	9,924	(9,011)	(6,600)
18	(28,314)	(20,399)	9,924	(8,511)	(6,233)
19	(26,824)	(19,325)	9,924	(8,063)	(5,905)
20	(25,483)	(18,359)	9,924	7,660	5,610
21	(24,269)	(17,485)	9,924	7,759	5,709
22	(23,166)	(16,690)	9,924	7,849	5,800
23	(22,159)	(15,964)	9,924	7,931	5,882
24	(21,235)	(15,298)	9,924	8,006	5,958
25	(20,386)	(14,687)	9,924	8,076	6,028
26	(19,602)	(14,122)	9,924	8,140	6,092
27	(18,876)	(13,599)	9,924	8,199	6,151

Alcoholic strengths	Whisky Brandy	Spirits	Liqueur	Shochu A	Shochu B
28	(18,202)	(13,113)	9,924	8,254	6,207
29	(17,574)	(12,661)	9,924	8,305	6,258
30	(16,988)	(12,239)	9,924	8,353	6,306
31	(16,440)	(11,844)	9,924	8,666	6,530
32	(15,926)	(11,474)	9,924	8,960	6,740
33	(15,444)	(11,126)	9,924	9,235	6,937
34	(14,990)	(10,799)	9,924	9,495	7,123
35	(14,561)	(10,491)	9,924	9,740	7,298
36	(14,157)	(10,199)	9,924	-	7,463
37	13,774	9,924	9,924	-	7,620
38	13,774	9,924	9,924	-	7,768
39	13,774	9,924	9,924	-	7,908
40	13,775	9,924	9,924	-	8,042
41	13,775	9,924	9,924	-	8,169
42	13,775	9,924	9,924	-	8,290
43	13,775	9,924	9,924	-	8,405
44	13,775	9,924	9,924	-	8,515
45	13,775	9,924	9,924	-	8,621
46	13,775	9,924	9,924	-	-
47	13,775	9,924	9,924	-	-
48	13,775	9,924	9,924	-	-
49	13,775	9,924	9,924	-	-
50	13,776	9,924	9,924	-	-

(1 October 1998-30 September 2001)

Figures for the Tax Per Degree of Alcohol for Each Category of Alcohol
at Different Alcoholic Strengths (At 1 Intervals)

Alcoholic strengths	Whisky Brandy	Spirits	Liqueur	Shochu A	Shochu B
1	(81,800)	(79,392)	(79,392)	(79,392)	(63,808)
2	(40,900)	(39,696)	(39,696)	(39,696)	(31,904)
3	(27,266)	(26,464)	(26,464)	(26,464)	(21,269)
4	(20,450)	(19,848)	(19,848)	(19,848)	(15,952)
5	(16,360)	(15,878)	(15,878)	(15,878)	(12,761)
6	(13,633)	(13,232)	(13,232)	(13,232)	(10,634)
7	(11,685)	(11,341)	(11,341)	(11,341)	(9,115)
8	10,225	9,924	9,924	9,924	7,976
9	10,225	9,924	9,924	9,924	7,976
10	10,225	9,924	9,924	9,924	7,976
11	10,225	9,924	9,924	9,924	7,976
12	10,225	9,924	9,924	9,924	7,976
13	(29,101)	(28,245)	9,924	(15,267)	(11,946)
14	(27,023)	(26,227)	9,924	(14,177)	(11,092)
15	(25,221)	(24,479)	9,924	(13,232)	(10,353)
16	(23,645)	(22,949)	9,924	(12,405)	(9,706)
17	(22,254)	(21,599)	9,924	(11,675)	(9,135)
18	(21,018)	(20,399)	9,924	(11,026)	(8,627)
19	(19,911)	(19,325)	9,924	(10,446)	(8,173)
20	(18,916)	(18,359)	9,924	9,924	7,765
21	(18,015)	(17,485)	9,924	9,924	7,815
22	(17,196)	(16,690)	9,924	9,924	7,860
23	(16,448)	(15,964)	9,924	9,924	7,902
24	(15,763)	(15,299)	9,924	9,924	7,940
25	(15,133)	(14,687)	9,924	9,924	7,976
26	(14,550)	(14,122)	9,924	9,924	8,008
27	(14,012)	(13,599)	9,924	9,924	8,038

Alcoholic strengths	Whisky Brandy	Spirits	Liqueur	Shochu A	Shochu B
28	(13,511)	(13,113)	9,924	9,924	8,066
29	(13,045)	(12,661)	9,924	9,924	8,092
30	(12,610)	(12,239)	9,924	9,924	8,116
31	(12,204)	(11,844)	9,924	9,924	8,228
32	(11,822)	(11,474)	9,924	9,924	8,333
33	(11,464)	(11,126)	9,924	9,924	8,431
34	(11,127)	(10,799)	9,924	9,924	8,524
35	(10,809)	(10,491)	9,924	9,924	8,611
36	(10,509)	(10,199)	9,924	-	8,693
37	10,225	9,924	9,924	-	8,771
38	10,225	9,924	9,924	-	8,845
39	10,225	9,924	9,924	-	8,915
40	10,225	9,924	9,924	-	8,982
41	10,225	9,924	9,924	-	9,045
42	10,225	9,924	9,924	-	9,106
43	10,225	9,924	9,924	-	9,163
44	10,225	9,924	9,924	-	9,218
45	10,225	9,924	9,924	-	9,271
46	10,225	9,924	9,924	-	-
47	10,225	9,924	9,924	-	-
48	10,225	9,924	9,924	-	-
49	10,225	9,924	9,924	-	-
50	10,225	9,924	9,924	-	-

(1 October 2001-)

Figures for the Tax Per Degree of Alcohol for Each Category of Alcohol
at Different Alcoholic Strengths (At 1 Intervals)

Alcoholic strengths	Whisky Brandy	Spirits	Liqueur	Shochu A	Shochu B
1	(81,800)	(79,392)	(79,392)	(79,392)	(79,392)
2	(40,900)	(39,696)	(39,696)	(39,696)	(39,696)
3	(27,266)	(26,464)	(26,464)	(26,464)	(26,464)
4	(20,450)	(19,848)	(19,848)	(19,848)	(19,848)
5	(16,360)	(15,878)	(15,878)	(15,878)	(15,878)
6	(13,833)	(13,232)	(13,232)	(13,232)	(13,232)
7	(11,685)	(11,341)	(11,341)	(11,341)	(11,341)
8	10,225	9,924	9,924	9,924	9,924
9	10,225	9,924	9,924	9,924	9,924
10	10,225	9,924	9,924	9,924	9,924
11	10,225	9,924	9,924	9,924	9,924
12	10,225	9,924	9,924	9,924	9,924
13	(29,101)	(28,245)	9,924	(15,267)	(15,267)
14	(27,023)	(26,227)	9,924	(14,177)	(14,177)
15	(25,221)	(24,479)	9,924	(13,232)	(13,232)
16	(23,645)	(22,949)	9,924	(12,405)	(12,405)
17	(22,254)	(21,599)	9,924	(11,675)	(11,675)
18	(21,018)	(20,399)	9,924	(11,026)	(11,026)
19	(19,911)	(19,325)	9,924	(10,446)	(10,446)
20	(18,916)	(18,359)	9,924	9,924	9,924
21	(18,015)	(17,485)	9,924	9,924	9,924
22	(17,195)	(16,690)	9,924	9,924	9,924
23	(16,448)	(15,964)	9,924	9,924	9,924
24	(15,763)	(15,299)	9,924	9,924	9,924
25	(15,133)	(14,687)	9,924	9,924	9,924
26	(14,550)	(14,122)	9,924	9,924	9,924
27	(14,012)	(13,599)	9,924	9,924	9,924

Alcoholic strengths	Whisky Brandy	Spirits	Liqueur	Shochu A	Shochu B
28	(13,511)	(13,113)	9,924	9,924	9,924
29	(13,045)	(12,661)	9,924	9,924	9,924
30	(12,610)	(12,239)	9,924	9,924	9,924
31	(12,204)	(11,844)	9,924	9,924	9,924
32	(11,822)	(11,474)	9,924	9,924	9,924
33	(11,464)	(11,126)	9,924	9,924	9,924
34	(11,127)	(10,799)	9,924	9,924	9,924
35	(10,809)	(10,491)	9,924	9,924	9,924
36	(10,509)	(10,199)	9,924	-	9,924
37	10,225	9,924	9,924	-	9,924
38	10,225	9,924	9,924	-	9,924
39	10,225	9,924	9,924	-	9,924
40	10,225	9,924	9,924	-	9,924
41	10,225	9,924	9,924	-	9,924
42	10,225	9,924	9,924	-	9,924
43	10,225	9,924	9,924	-	9,924
44	10,225	9,924	9,924	-	9,924
45	10,225	9,924	9,924	-	9,924
46	10,225	9,924	9,924	-	-
47	10,225	9,924	9,924	-	-
48	10,225	9,924	9,924	-	-
49	10,225	9,924	9,924	-	-
50	10,225	9,924	9,924	-	-

ANNEX 2

As for the tariff rates on whisky and brandy during the period from 1 October 1998 until 31 March 2002, the Government of Japan proposes to take an autonomous measure to apply to the following items the reduced tariff rates from the bound rates. The bound rates for each item and the size of reduction are listed in (1) and (2) respectively. This will result in the revised applied rates indicated in (3).

(1) Bound rates

	2208.20-200	brandy (other)			
	1 April 1998	1 April 1999	1 April 2000	1 April 2001	
¥	273.00/l. ¥	227.50/l. ¥	182.00/l. ¥	136.50/l.	
	2208.30-032	whisky other (other)			
	1 April 1998	1 April 1999	1 April 2000	1 April 2001	
¥	205.80/l. ¥	171.50/l. ¥	137.20/l. ¥	102.90/l.	

(2) Size of reduction

¥ 48.70 per litre from the bound rates

from 1 October 1998 to 31 March 2001

¥ 24.35 per litre from the bound rates

from 1 April 2001 to 31 March 2002

(3) Revised applied rates

	2208.20-200	brandy (other)			
	1 October 1998	1 April 1999	1 April 2000	1 April 2001	
¥	224.30/l. ¥	178.80/l. ¥	133.30/l. ¥	112.15/l.	
	2208.30-032	whisky other (other)			
	1 October 1998	1 April 1999	1 April 2000	1 April 2001	
¥	157.10/l. ¥	122.80/l. ¥	88.50/l. ¥	78.55/l.	

Enclosure 4: Letter from Ministry of Foreign Affairs of Japan to Sir Leon Brittan, dated 31 January 1997

I would like to acknowledge receipt of your letter dated 31 January 1997.

I am pleased to confirm that the implementation of the elements and measures outlined in your letter, whose adoption will be in accordance with Japanese domestic legislative procedures and which constitute the means to resolve the dispute on liquor tax between the European Community and Japan, will be carried out as set out in your letter.