

CANADA - CERTAIN MEASURES CONCERNING PERIODICALS

Notification of an Appeal by Canada under
paragraph 4 of Article 16 of the Understanding on Rules
and Procedures Governing the Settlement of Disputes (DSU)

The following notification, dated 29 April 1997, sent by Canada to the Dispute Settlement Body (DSB), is circulated to Members. The notification also constitutes the Notice of Appeal, filed on the same day with the Appellate Body, pursuant to the *Working Procedures for Appellate Review*.

Pursuant to paragraph 4 of Article 16 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) and Rule 20 of the Working Procedures for Appellate Review, the Government of Canada hereby notifies its decision to appeal to the Appellate Body certain issues of law covered in the panel report on *Canada - Certain Measures concerning Periodicals* (WT/DS31/R) and certain legal interpretations developed by the panel.

The Government of Canada requests a review by the Appellate Body of the panel's decision in respect of the applicability of both GATS and GATT 1994 to Part V.1 of the *Excise Tax Act*. The Government of Canada submits that the panel report discloses that the panel erred in law by failing to consider whether Part V.1 of the *Excise Tax Act* is a measure relating to trade in services and consequently further erred in law in characterizing Part V.1 of the *Excise Tax Act* as a measure regulating trade in goods subject to GATT 1994.

In the alternative, the Government of Canada requests a review by the Appellate Body of the panel's legal interpretation of Article III:2 of GATT 1994. The Government of Canada submits that the panel erred in law when it found Part V.1 of the *Excise Tax Act* to be inconsistent with Article III:2. In particular the panel report discloses that the panel,

- (a) erred in law in finding that imported U.S. split-run periodicals and Canadian non split-run periodicals are like products;
- (b) erred in law in the interpretation and application of the concept "indirectly" as it is used in Article III:2; and
- (c) erred in law by failing to apply the principle of non-discrimination that is embodied in Article III:2 of GATT 1994.