

**CANADA – MEASURES AFFECTING THE EXPORT OF CIVILIAN AIRCRAFT**

Recourse by Brazil to Article 21.5 of the DSU

Notification of an Appeal by Brazil under paragraph 8 of  
Article 4 of the Agreement on Subsidies and Countervailing Measures  
and paragraph 4 of Article 16 of the Understanding on Rules  
and Procedures Governing the Settlement of Disputes

The following notification, dated 22 May 2000, sent by Brazil to the Dispute Settlement Body (DSB), is circulated to Members. This notification also constitutes the Notice of Appeal, filed on the same day with the Appellate Body, pursuant to the *Working Procedures for Appellate Review*.

The Government of Brazil hereby notifies the Appellate Body and the Dispute Settlement Body of its decision to appeal certain issues of law and legal interpretations developed by the Panel in its Report on *Canada – Measures Affecting the Export of Civilian Aircraft – Recourse by Brazil to Article 21.5 of the Dsu*, as well as certain legal findings and conclusions of the Panel.

Brazil gives this notice pursuant to Article 4.8 of the *Agreement on Subsidies and Countervailing Measures* ("SCM Agreement"), Article 16.4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), and Rules XX and XXXI(1) of the *Working Procedures for Appellate Review*.

Brazil asks the Appellate Body to review the following legal findings and conclusions of the Panel, and the legal interpretations that support these findings and conclusions:

1. That Canada, as stated in paragraph 6.2 of the Report, "has implemented the 20 August 1999 DSB recommendation that Canada withdraw TPC assistance to the Canadian regional aircraft industry within 90 days."
2. That pursuant to Article 21.5 of the DSU, the scope of the Panel's review was limited to the consistency of Canada's amended Technology Partnerships Canada ("TPC") program with the recommendations and rulings of the Dispute Settlement Body ("DSB") and the factual circumstances of the Panel's original ruling in *Canada – Measures Affecting the Export of Civilian Aircraft*, WT/DS70/R.
3. That partial amendment of the factors contributing to the Panel's and the Appellate Body's determination that TPC constituted a prohibited export subsidy satisfies the requirement that the Panel, pursuant to Article 21.5 of the DSU, review the existence or consistency of implementation measures with the *SCM Agreement* and the recommendations and rulings of the DSB.

4. That the Panel's original ruling did not include a determination that prohibited export subsidies granted by TPC were specific and targeted to the Canadian aerospace industry.

As a result of the review, Brazil asks that the Appellate Body reverse the Panel's conclusion with regard to TPC, complete the Panel's analysis and conclude that Canada's amended TPC is not consistent with the *SCM Agreement* or the recommendations and rulings of the DSB.

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