

BRAZIL – EXPORT FINANCING PROGRAMME FOR AIRCRAFT

Recourse by Canada to Article 4.10 of the SCM Agreement
and Article 22.2 of the DSU

The following communication, dated 10 May 2000, from the Permanent Mission of Canada to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 4.10 of the SCM Agreement and Article 22.2 of the DSU.

Canada requests that a special meeting of the Dispute Settlement Body be held on 22 May 2000 to consider the following agenda item:

Brazil – Export Financing Programme for Aircraft
Recourse by Canada to Article 4.10 of the SCM Agreement and Article 22.2 of the DSU

Both the Panel and the Appellate Body in this dispute found the Brazilian measures under review to violate Article 3 of the Agreement on Subsidies and Countervailing Measures (the "SCM Agreement"). On 20 August 1999, in a special session, the Dispute Settlement Body (the "DSB") adopted the Appellate Body report and the report of the Panel, as modified by the Appellate Body. The resulting DSB recommendations and rulings include the recommendation that Brazil bring its measures found to be inconsistent with the SCM Agreement into conformity with the provisions of that agreement, and that Brazil withdraw the export subsidies for regional aircraft under PROEX within 90 days.

The period for compliance expired on 18 November 1999. Canada and Brazil disagreed as to whether the measures taken by Brazil to comply with the 20 August 1999 recommendations and rulings of the DSB brought Brazil into conformity with the provisions of the SCM Agreement and resulted in the withdrawal of the export subsidies to regional aircraft under PROEX. Canada requested that the matter of Brazil's non-compliance be referred to the original panel pursuant to Article 21.5 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (the "DSU"). On 9 May 2000, the Panel circulated its findings. It found: (1) that Brazil's measures to comply with the recommendations and rulings of the DSB either do not exist or are not consistent with the SCM Agreement; and (2) that Brazil had failed to withdraw the export subsidies for regional aircraft under PROEX.

At the meeting of the DSB on 22 May 2000, Canada will request authorization from the DSB to take appropriate countermeasures pursuant to Article 4.10 of the SCM Agreement and Article 22.2 of the DSU in the amount of Can\$700 million per year.

Canada intends to take countermeasures in the form of some or all of the following:

- 1) the suspension of the application of the obligation under paragraph 6(a) of Article VI of GATT 1994 to determine that the effect of subsidization under PROEX is to cause or threaten material injury to an established domestic industry, or is to retard materially the establishment of a domestic industry;
- 2) the suspension of the application of obligations under the Agreement on Textiles and Clothing relative to quantitative restraints on imports of textiles and clothing imports from Brazil;
- 3) the suspension of the application of obligations under the Agreement on Import Licensing Procedures relative to licensing requirements on imports from Brazil; and
- 4) the suspension of tariff concessions and related obligations under the GATT 1994 by imposing a surtax of 100 per cent above existing custom duties on a list of products imported from Brazil. On 13 May 2000 Canada will publish in the Canada Gazette a proposed list of products on which concessions could be withdrawn. That list is attached for ease of reference.

Canada may also suspend Brazil from the list of countries eligible for General Preferential Tariff treatment, a unilateral tariff preference granted by Canada for most imports from developing countries.

ANNEX

BRAZIL – EXPORT FINANCING PROGRAMME FOR AIRCRAFT

List of Imports from Brazil
from which Concessions could be Withdrawn

Tariff Chapter/ Heading/ Sub-heading	Description
1	Live animals
2	Meat and edible meat offal
3	Fish and crustaceans, molluscs and other aquatic invertebrates
4	Dairy produce; bird's eggs; natural honey; edible products of animal origin, not elsewhere specified or included
5	Products of animal origin, not elsewhere specified or included
6	Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage
7	Edible vegetables and certain roots and tubers
8	Edible fruit and nuts; peel of citrus fruit or melons
9	Coffee, tea, maté and spices
10	Cereals
11	Products of the milling industry; malt; starches; inulin; wheat gluten
12	Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medicinal plants; straw and fodder
13	Lac; gums, resins and other vegetable saps and extracts
14	Vegetable plaiting materials; vegetable products not elsewhere specified or included
15	Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes
16	Preparations of meat, of fish or of crustaceans, molluscs or other aquatic invertebrates
170191	Refined Sugar
170199	Refined Sugar
18	Cocoa and cocoa preparations
19	Preparations of cereals, flour, starch or milk; pastrycooks' products
2001	Vegetables, fruit, nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid
2002	Tomatoes prepared or preserved otherwise than by vinegar or acetic acid
2003	Mushrooms and truffles, prepared or preserved otherwise than by vinegar or acetic acid
2004	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, frozen, other than products of heading No. 20.06
2005	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading No. 20.06
2006	Vegetables, fruit, nuts, fruit-peel and other parts of plants, preserved by sugar (drained, glacé or crystallised)

2007	Jams, fruit jellies, marmalades, fruit or nut purée and fruit or nut pastes, being cooked preparations, whether or not containing added sugar or other sweetening matter
2008	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included
21	Miscellaneous edible preparations
22	Beverages, spirits and vinegar
23	Residues and waste from the food industries; prepared animal fodder
24	Tobacco and manufactured tobacco substitutes
29	Organic chemicals
30	Pharmaceutical products
31	Fertilizers
32	Tanning or dyeing extracts; tannins and their derivatives; dyes, pigments and other colouring matter; paints and varnishes; putty and other mastics; inks
33	Essential oils and resinoids; perfumery, cosmetic or toilet preparations
34	Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing or scouring preparations, candles and similar articles, modelling pastes, "dental waxes" and dental preparations with a basis of plaster
35	Albuminoidal substances; modified starches; glues; enzymes
36	Explosives; pyrotechnic products; matches; pyrophoric alloys; certain combustible preparations
37	Photographic or cinematographic goods
38	Miscellaneous chemical products
39	Plastics and articles thereof
42	Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silk-worm gut)
43	Furskins and artificial fur; manufactures thereof
4401	Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms; wood in chips or particles; sawdust and wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms
4402	Wood charcoal (including shell or nut charcoal), whether or not agglomerated.
4403	Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared
4404	Hoopwood; split poles; piles, pickets and stakes of wood, pointed but not sawn lengthwise; wooden sticks, roughly trimmed but not turned, bent or otherwise worked, suitable for the manufacture of walking-sticks, umbrellas, tool handles or the like; chipwood and the like
4405	Wood wool; wood flour
4406	Railway or tramway sleepers (cross-ties) of wood
4410	Particle board and similar board of wood or other ligneous materials, whether or not agglomerated with resins or other organic binding substances
4411	Fibreboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances
4413	Densified wood, in blocks, plates, strips or profile shapes

4414	Wooden frames for paintings, photographs, mirrors or similar objects
4415	Packing cases, boxes, crates, drums and similar packings, of wood; cable-drums of wood; pallets, box pallets and other load boards, of wood; pallet collars of wood
4416	Casks, barrels, vats, tubs and other coopers' products and parts thereof, of wood, including staves
4417	Tools, tool bodies, tool handles, broom or brush bodies and handles, of wood; boot or shoe lasts and trees, of wood
4418	Builders' joinery and carpentry of wood, including cellular wood panels, assembled parquet panels, shingles and shakes
4419	Tableware and kitchenware, of wood
4420	Wood marquetry and inlaid wood; caskets and cases for jewellery or cutlery, and similar articles, of wood; statuettes and other ornaments, of wood; wooden articles of furniture not falling in Chapter 94
4421	Other articles of wood
45	Cork and articles of cork
46	Manufactures of straw, of esparto or of other plaiting materials; basketware and wickerwork
4701	Mechanical wood pulp
4702	Chemical wood pulp, dissolving grades
4704	Chemical wood pulp, sulphite, other than dissolving grades
4705	Semi-chemical wood pulp
4706	Pulps of fibres derived from recovered (waste and scrap) paper or paperboard or of other fibrous cellulosic material
4707	Recovered (waste and scrap) paper or paperboard
48	Paper and paperboard; articles of paper pulp, of paper or of paperboard
50	Silk
51	Wool, fine or coarse animal hair; horsehair yarn and woven fabric
52	Cotton
53	Other vegetable textile fibres; paper yarn and woven fabrics of paper yarn
54	Man-made filaments
55	Man-made staple fibres
57	Carpets and other textile floor coverings
58	Special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings; embroidery
59	Impregnated, coated, covered or laminated textile fabrics; textile articles of a kind suitable for industrial use
60	Knitted or crocheted fabrics
61	Articles of apparel and clothing accessories, knitted or crocheted
62	Articles of apparel and clothing accessories, not knitted or crocheted
6301	Blankets and travelling rugs.
6302	Bed linen, table linen, toilet linen and kitchen linen
6303	Curtains (including drapes) and interior blinds; curtain or bed valances
6304	Other furnishing articles, excluding those of heading No. 94.04

6306	Tarpaulins, awnings and sunblinds; tents; sails for boats, sailboards or landcraft; camping goods
6307	Other made up articles, including dress patterns
6308	Sets consisting of woven fabric and yarn, whether or not with accessories, for making up into rugs, tapestries, embroidered table cloths or serviettes, or similar textile articles, put up in packings for retail sale
6309	Worn clothing and other worn articles
6310	Used or new rags, scrap twine, cordage, rope and cables and worn out articles of twine, cordage, rope or cables, of textile materials
64	Footwear, gaiters and the like; parts of such articles
65	Headgear and parts thereof
66	Umbrellas, sun umbrellas, walking-sticks, seat-sticks, whips, riding-crops and parts thereof
67	Prepared feathers and down and articles made of feathers or of down; artificial flowers; articles of human hair
68	Articles of stone, plaster, cement, asbestos, mica or similar materials
69	Ceramic products
70	Glass and glassware
71	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal, and articles thereof; imitation jewellery; coin
7208	Flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, hot-rolled, not clad, plated or coated
7209	Flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, cold-rolled (cold-reduced), not clad, plated or coated
7210	Flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, clad, plated or coated
7211	Flat-rolled products of iron or non-alloy steel, of a width of less than 600 mm, not clad, plated or coated
7212	Flat-rolled products of iron or non-alloy steel, of a width of less than 600 mm, clad, plated or coated
7214	Other bars and rods of iron or non-alloy steel, not further worked than forged, hot-rolled, hot-drawn or hot-extruded, but including those twisted after rolling
7215	Other bars and rods of iron or non-alloy steel
7216	Angles, shapes and sections of iron or non-alloy steel
7217	Wire of iron or non-alloy steel
7219	Flat-rolled products of stainless steel, of a width of 600 mm or more
7220	Flat-rolled products of stainless steel, of a width of less than 600 mm
7221	Bars and rods, hot-rolled, in irregularly wound coils, of stainless steel
7222	Other bars and rods of stainless steel; angles, shapes and sections of stainless steel
7223	Wire of stainless steel
7225	Flat-rolled products of other alloy steel, of a width of 600 mm or more

7226	Flat-rolled products of other alloy steel, of a width of less than 600 mm
7227	Bars and rods, hot-rolled, in irregularly wound coils, of other alloy steel
7228	Other bars and rods of other alloy steel; angles, shapes and sections, of other alloy steel; hollow drill bars and rods, of alloy or non-alloy steel
7229	Wire of other alloy steel
7301	Sheet piling of iron or steel, whether or not drilled, punched or made from assembled elements; welded angles, shapes and sections, of iron or steel
7302	Railway or tramway track construction material of iron or steel, the following: rails, check-rails and rack rails, switch blades, crossing frogs, point rods and other crossing pieces, sleepers (cross-ties), fish-plates, chairs, chair wedges, sole plates (base plates), rail clips, bedplates, ties and other material specialized for jointing or fixing rails
7303	Tubes, pipes and hollow profiles, of cast iron
7308	Structures (excluding prefabricated buildings of heading No. 94.06) and parts of structures (for example, bridges and bridge-sections, lock-gates, towers, lattice masts, roofs, roofing frame-works, doors and windows and their frames and thresholds for doors, shutters, balustrades, pillars and columns), of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures, of iron or steel
7309	Reservoirs, tanks, vats and similar containers for any material (other than compressed or liquefied gas), of iron or steel, of a capacity exceeding 300 litres, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment
7310	Tanks, casks, drums, cans, boxes and similar containers, for any material (other than compressed or liquefied gas), of iron or steel, of a capacity not exceeding 300 litres, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment
7311	Containers for compressed or liquefied gas, of iron or steel
7312	Stranded wire, ropes, cables, plaited bands, slings and the like, of iron or steel, not electrically insulated
7313	Barbed wire of iron or steel; twisted hoop or single flat wire, barbed or not, and loosely twisted double wire, of a kind used for fencing, of iron or steel
7314	Cloth (including endless bands), grill, netting and fencing, of iron or steel wire; expanded metal of iron or steel
7315	Chain and parts thereof, of iron or steel
7316	Anchors, grapnels and parts thereof, of iron or steel
7317	Nails, tacks, drawing pins, corrugated nails, staples (other than those of heading No. 83.05) and similar articles, of iron or steel, whether or not with heads of other material, but excluding such articles with heads of copper
7318	Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter-pins, washers (including spring washers) and similar articles, of iron or steel
7319	Sewing needles, knitting needles, bodkins, crochet hooks, embroidery stilettos and similar articles, for use in the hand, of iron or steel; safety pins and other pins of iron or steel, not elsewhere specified or included
7320	Springs and leaves for springs, of iron or steel
7321	Stoves, ranges, grates, cookers (including those with subsidiary boilers for central heating), barbecues, braziers, gas-rings, plate warmers and similar non-electric domestic appliances, and parts thereof, of iron or steel

7322	Radiators for central heating, not electrically heated, and parts thereof, of iron or steel; air heaters and hot air distributors (including distributors which can also distribute fresh or conditioned air), not electrically heated, incorporating a motor-driven fan or blower, and parts thereof, of iron or steel
7323	Table, kitchen or other household articles and parts thereof, of iron or steel; iron or steel wool; pot scourers and scouring or polishing pads, gloves and the like, of iron or steel
7324	Sanitary ware and parts thereof, of iron or steel
7325	Other cast articles of iron or steel
7326	Other articles of iron or steel
74	Copper and articles thereof
75	Nickel and articles thereof
76	Aluminum and articles thereof
78	Lead and articles thereof
79	Zinc and articles thereof
80	Tin and articles thereof
81	Other base metals; cermets; articles thereof
82	Tools, implements, cutlery, spoons and forks, of base metal; parts thereof of base metal
83	Miscellaneous articles of base metal
86	Railway or tramway locomotives, rolling-stock and parts thereof; railway or tramway track fixtures and fittings and parts thereof; mechanical (including electro-mechanical) traffic signalling equipment of all kinds
88	Aircraft, spacecraft and parts thereof
89	Ships, boats and floating structures
91	Clocks and watches and parts thereof
92	Musical instruments; parts and accessories of such articles
93	Arms and ammunition; parts and accessories thereof
94	Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings; lamps and lighting fittings, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like; prefabricated buildings
95	Toys, games and sports requisites; parts and accessories thereof
96	Miscellaneous manufactured articles
97	Works of art, collectors' pieces and antiques
