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BRAZIL – CERTAIN MEASURES CONCERNING TAXATION AND CHARGES

COMMUNICATION FROM JAPAN AND BRAZIL CONCERNING ARTICLE 21.3(B) AND 21.3(C) OF THE DSU

The following communication, dated 20 February 2019, from the delegation of Japan and the delegation of Brazil to the Chairperson of the Dispute Settlement Body, is circulated at the request of these delegations.

We refer to our ongoing negotiations in relation to the time within which Brazil should comply with the recommendations and rulings of the Dispute Settlement Body ("DSB") in case *Brazil – Certain Measures Concerning Taxation and Charges* (DS497), which were adopted on 11 January 2019.

With regard to the Reasonable Period of Time ("RPT") provided for by Article 21.3(b) of the Dispute Settlement Understanding ("DSU"), Brazil and Japan are seeking to mutually agree to such RPT, even if such agreement is reached beyond the time period provided for in Article 21.3(b) of the DSU.

Article 21.3(c) of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU") provides that, in the absence of an agreement between the parties on a period of time, the RPT shall be determined "through binding arbitration within 90 days after the date of adoption of the recommendations and rulings."

With the present letter, Brazil and Japan confirm their common understanding that, if the matter is referred to arbitration: (i) such arbitration shall be completed no later than 60 days after the date of the appointment of the arbitrator, unless the arbitrator, following consultation with the parties, considers that additional time is required; and (ii) the award of the arbitrator (including an award which is not made within 90 days after the date of adoption of the DSB recommendations and rulings) shall be the award of the arbitrator provided for in Article 21.3(c) of the DSU.

We request that you circulate this communication to the Members of the DSB.
