

GENERAL AGREEMENT ON

RESTRICTED

TARIFFS AND TRADE

DS23/2

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UNITED STATES - MEASURES AFFECTING ALCOHOLIC AND MALT BEVERAGES

Request for the Establishment of a Panel under Article XXIII:2 by Canada

The following communication, dated 11 April 1991, has been received from the Permanent Mission of Canada in Geneva, with the request that it be circulated to contracting parties and inscribed on the Agenda for the Council meeting of 24 April.

At the request of Canada (Ref DS23/1 of 11 February 1991), consultations were held on 7 March 1991 under Article XXIII:1 of the General Agreement with respect to measures maintained by the United States at both the federal and state level affecting the treatment of imported alcoholic and malt beverages.

In these consultations, Canada raised its concern that the recently enacted federal legislation - Part I, Section 11201 of the Omnibus Budget Reconciliation Act of 1990 - discriminated against Canadian exports of beer, wine and cider by providing exclusive excise tax advantages to certain USA producers of beer, wine and cider. Canada considers these provisions to be contrary to Article III:2 of the General Agreement. Canada first raised its concern regarding the federal excise tax measures with the United States in October 1990 and since then has made clear the urgency which it attaches to removal of the discriminatory effect of these measures.

In the Article XXIII:1 consultations, Canada also raised a number of practices maintained at the state level affecting the treatment of Canadian imported alcoholic and malt beverages. These practices include state measures concerning taxation, availability for sale, labelling, distribution and other measures which discriminate against Canadian products. Canada considers these measures to be inconsistent with the United States obligations under the General Agreement, including, but not limited to, Articles III:2, III:4 and XI.

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Canada further considers that both the federal and state measures nullify and impair benefits accruing to Canada under the General Agreement.

These consultations have not so far produced satisfactory results. Canada remains open to a bilateral resolution of this matter and a further round of consultations is scheduled for 16 April.

However, in the absence of any indication that the United States is prepared to reach a mutually satisfactory resolution of this matter, and given the damaging effect these measures are having on Canadian export interests, Canada hereby requests the Council to establish a panel under Article XXIII:2 of the General Agreement to examine the conformity of the U.S. measures in light of the provisions of the General Agreement.