

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

L/5777

12 February 1985

Limited Distribution

Original: English

CANADA - IMPORT DISTRIBUTION AND SALE OF ALCOHOLIC DRINKS BY PROVINCIAL MARKETING AGENCIES

Recourse to Article XXIII: 2

The following communication, dated 6 February 1985, has been received from the Commission of the European Communities.

The importation, distribution and sale of alcoholic drinks in Canada is controlled by provincial marketing agencies, or "liquor boards". Certain practices of the liquor boards, in particular the application of a mark-up to the sale price of alcoholic drinks, and other forms of restriction and discrimination nullify or impair the advantages accruing to the Community under the General Agreement, especially in respect of beer, wines and spirits the duties on which are bound in Canada's tariff schedule.

More specifically, the Community wishes to draw attention to the following points:

- (a) Mark-ups applied to the selling price of imported beer, wines and spirits sold in Canada constitute additional charges on imports and break the bindings given in Canada's G.A.T.T. tariff schedule. The mark-ups result in the commerce of other Contracting Parties receiving treatment less favourable than that provided for in that schedule, and thus constitute a breach of Canada's obligations under Article II:1(a);
- (b) The Community takes the view that the provincial liquor boards, which are the subject of annual notifications by Canada under Article XVII of G.A.T.T., constitute import monopolies for the purpose of Article II:4. The Community is of the opinion that the application of a mark-up to imported products is greater than that applied to the like domestic product and results in an amount of protection in excess of that permitted by Article II:4;
- (c) The mark-ups applied to imported products in so far as they exceed the bound duties in Canada's tariff schedule have not been justified by "commercial considerations" as required by Article XVII of the General Agreement. This applies in particular to the mark-ups on wine and spirits applied by the liquor boards of Ontario, Quebec and British Columbia, and also beer in Ontario and British Columbia.

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- (d) Mark-ups which discriminate against imported alcoholic drinks constitute a breach of Article III:1, 2 and 4;
- (e) Canada has not fully complied with her notification obligations in Article XVII in particular with regard to the determination of the mark-up on imported products;
- (f) Restrictions on the points of sale available to imported products as opposed to domestic products or domestically bottled products in certain provinces constitute a breach of Article III:4

The policies and practices of the provincial liquor boards have over many years been the subject of repeated representations by the Community to the Canadian authorities at both a multilateral and bilateral level.

At the multilateral level, Canada included as part of its M.T.N. settlement a Provincial Statement of Intentions with respect to sales of alcoholic beverages by provincial marketing agencies in Canada. The Community has recently conducted bilateral consultations under Article XXIII:1 of G.A.T.T. In the absence of a satisfactory solution to the problem, the Community wishes to refer the matter to CONTRACTING PARTIES in accordance with the provisions of Article XXIII:2.