

RESTRICTED

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Special Distribution

The Uruguay Round
Surveillance Body

ROLLBACK

Communication

The following communication is circulated in accordance with paragraph 4 of the agreed procedures for the surveillance mechanism (MTN.TNC/2, Annex).

1. Communication from: CANADA to: BRAZIL

2. Participant maintaining the measure: BRAZIL

3. Description of the measure (including date of entry into force and relevant legislation or other document):

Under Communicado 133, titled "The Elimination of Similarity", issued by the Bank of Brazil's Foreign Commerce Department, there is provision for a process of consultation with local industry which stipulates specific time periods within which prospective importers must provide technical justification that a foreign product is different or superior to a locally manufactured similar product. Under this process local industry is given the right to challenge and refute the claims of prospective importers. As a result of this process the import licence may be withheld if the local product is found to be functionally equivalent in terms of price (including import duties), quality and delivery. In addition, even if the imported product is found to be of lower price and/or higher quality, the process itself often takes such a period of time that the commercial basis for the transaction is placed in jeopardy. Moreover, the consultation process is also open to abuses through claims in regard to the capabilities of local industries. Although certain imports (ie. those with over 360 days of financing) are technically exempt from the process, in practice the consultation process can impede or delay most import transactions.

4. Products covered, including tariff headings (CCCN where applicable, otherwise national tariff lines):

Most products, constituting 90 percent of all imports.

5. Country or countries to which the measure applies:

All.

6. Grounds for belief that the measure should be subject to the rollback commitment:

Brazilian industrial targeting and its close connection to the import licencing regime constitutes a serious trade barrier. Screening of imports by committee of those affected by imports is clearly an institutionalized mechanism for protectionism on an ongoing basis. This represents a long standing trade barrier inconsistent with Brazil's GATT obligations.