

GENERAL AGREEMENT ON

RESTRICTED

ADP/73

31 January 1992

TARIFFS AND TRADE

Special Distribution

Committee on Anti-Dumping Practices

Original: English

CANADA - ANTI-DUMPING DUTIES ON IMPORTS OF BEER FROM THE UNITED STATES

Request by the United States for Conciliation under Article 15:3 of the Agreement

The following communication, dated 29 January 1992, has been received by the Chairman of the Committee from the United States Trade Representative, with the request that it be circulated to members of the Committee.

My authorities have instructed me to refer to the Committee for conciliation under Article 15:3 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (the "Anti-Dumping Code") a determination by the Government of Canada on imports of beer from the United States.

On 24 December 1991 the United States requested consultations with the Government of Canada under Article 15:2, with a view to reaching a mutually satisfactory resolution of this matter. On 24 January 1992 representatives of my Government met with Canadian Government representatives in Ottawa to discuss the determination. Unfortunately, the consultation failed to achieve a mutually agreed solution.

It remains my Government's view that, based on our understanding of Canada's decision, we consider that benefits accruing to the United States under the Code are being nullified or impaired and that the achievement of the proper application of the Code is being impeded as a result of the Canadian Government's decision in this case.

My Government is particularly concerned with the decision of the Canadian International Trade Tribunal concerning the existence of material injury by reason of the imports subject to investigation. In particular, we are concerned with the validity of the regional industry analysis under Article 4:1(ii) of the Anti-Dumping Code, which requires a "concentration

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of dumped imports" into the regional market. Our view is that, as a legal matter under the express terms of the Code, there was no "concentration of dumped imports" into the province of British Columbia, which was styled as a "region" for purposes of the anti-dumping determination.

In addition, my Government continues to have concerns relating to two aspects of Revenue Canada's calculation of the margin of dumping. In that regard, we have questions concerning the treatment of promotional expense by the US exporters in the US market vis-à-vis those in the Canadian market in the computation of price comparisons. We are also concerned about the application of Canada's "preponderant price" test, which in this case resulted in the use of prices from only one state in the exporting country (Washington) in the determination of the home market price.

My authorities hope that the Committee can meet at an early date to consider these issues.