

GENERAL AGREEMENT ON

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TARIFFS AND TRADE

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Committee on Anti-Dumping Practices

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

Request by the United States for the Establishment of a Panel under Article 15:5 of the Agreement

The following communication, dated 3 June 1992, has been received by the Chairman of the Committee from the United States Trade Representative.

My authorities have instructed me to request that the Committee establish a panel pursuant to Article 15:5 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (the "Anti-Dumping Code") to adjudicate US concerns relating to 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.

Thereafter, the Anti-Dumping Code Committee conducted conciliation on the matter on 17 February 1992. Unfortunately, that process also did not lead to a mutually agreed solution. Accordingly, 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.

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In particular, my Government is concerned with the decision of the Canadian International Trade Tribunal concerning the existence of material injury by reason of the imports subject to investigation. Specifically, 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 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.

Unfortunately, neither the consultations nor the conciliation by the Committee resulted in the United States and Canada arriving at a mutually agreed solution. Accordingly, it continues to be the view of my Government that, as a result of Canada's decision, benefits accruing to the United States under the Anti-Dumping 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 Government of Canada's decision in this case.

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