I have received the attached communication, dated 19 August 1991, from the Chairman of the panel on the above-mentioned matter, with the request that it be brought to the attention of the Council.
Panel on "Canada - Import, Distribution and Sale of certain Alcoholic Drinks by Provincial Marketing Agencies"

Note by the Panel
(8 August 1991)

According to paragraph 5 of Section F(f) of the Decision of the CONTRACTING PARTIES of 12 April 1989 on "Improvements to the GATT Dispute Settlement Rules and Procedures" (L/6489), "the period in which the panel shall conduct its examination, from the time the composition and terms of reference of the panel have been agreed upon to the time which the final report is provided to the parties to the dispute, shall, as a general rule, not exceed six months ..."

Paragraph 6 of Section F(f) of the above-mentioned Decision provides that "When the panel considers that it cannot provide its report within six months, ..., it shall inform the Council in writing of the reasons for the delay together with an estimate of the period within which it will submit its report." ...

The Panel was established on 6 February 1991 and, in accordance with the above rules, would have had to submit its report to the Parties to the dispute on or before 26 August.

However, the Panel recalls that it is seized with a complaint relating to numerous specific practices applied in some or most of Canada's 10 provinces. At its last meeting, the Panel noted with some concern that there were still a number of points of disagreement between the Parties as to the facts which needed to be clarified. Also at its last meeting, the Panel had before it some material newly submitted to it by one of the Parties together with a formal request by the other to be given the opportunity to respond thereto. In view of this, the Panel decided to hold another meeting with the Parties and to revise its schedule accordingly.

The Panel will not, therefore, be able to meet the deadline of 26 August because facts of the case could only be clarified at a third panel meeting with the Parties on 29 July 1991. The Panel intends to provide its report to the Parties to the dispute on 18 September and to circulate the panel report to the contracting parties before 16 October 1991, that is before the expiry of the period of nine months provided for in paragraph 6 of Section F(f) of the above-mentioned Decision.
In deciding to revise its schedule, the Panel noted that the provision of paragraph 4 of Section G of the above-mentioned Decision "shall not affect the provision of paragraph 6 of Section F(f)". At the request of the Parties concerned, the Panel also wishes to transmit their positions in this respect.

The United States expressed the view that the concern of the drafters of the Decision to avoid delays in bringing panel reports before the contracting parties was such that they wished to ensure that submission of the report to the contracting parties should not exceed the nine-month rule in paragraph 6 of Section F(f) even if the fifteen-month rule in paragraph 4 of Section G could still be complied with. Canada stated its view that the fifteen-month period foreseen in paragraph 4 of Section G of the 1989 Decision was predicated on the assumption that the party bringing the complaint would move directly to a request for the establishment of a panel 60 days after the initial request for consultations.