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

Follow-up on the Panel report (L/6304)

Communication from the United States

The following communication, dated 20 September 1990, has been received from the Office of the United States Trade Representative.

Request by the United States for Authorization to Suspend the Application of Concessions in Accordance with the Provisions of Article XXIII:2

Canada continues to maintain restrictions affecting imports of beer which were expressly found to be inconsistent with Canada's GATT obligations in the Panel report on "Import, Distribution and Sale of Alcoholic Drinks by Canadian Provincial Marketing Agencies" (Liquor Boards), adopted by the GATT Council on March 22, 1988 (BISD 35S, 37). Specifically, Canadian provinces continue to maintain:

1. Listing practices which discriminate against imported beers (the Panel concluded at paragraph 4.25 of its report that these practices were inconsistent with Article XI:1 of the General Agreement);

2. Discriminatory price mark-up practices, with the mark-up for imported beers exceeding any reasonable estimate of the costs of distribution (the Panel concluded at paragraph 4.19 that these practices were not justifiable under Article II:4); and

3. Discriminatory restrictions on points of sale (the Panel concluded at paragraph 4.25 that these practices were inconsistent with Article XI:1).

The Government of Canada has to date failed to eliminate any of the above GATT-inconsistent practices. The United States recognizes that the violative practices are maintained by Canadian provincial governments not
the federal government, but the Canadian Government has not taken such reasonable measures as may be available to it to ensure compliance with the Panel report by the provincial authorities.

The above-cited practices continue to nullify or impair benefits accruing to the United States under the General Agreement. Efforts to resolve the matter through consultations have not been successful. Since the practices already have been found by the CONTRACTING PARTIES to be inconsistent with Canada's obligations under the General Agreement, the United States hereby asserts its rights under Article XXIII:2 with respect to the findings of the 1988 Liquor Boards Panel report and requests that the Council decide that the circumstances are serious enough to authorize the United States to suspend the application to Canada of appropriate concessions or other obligations.