

BRAZIL – EXPORT FINANCING PROGRAMME FOR AIRCRAFT

Request for the Establishment of a Panel by Canada

The following communication, dated 10 July 1998, from the Permanent Mission of Canada to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

On 18 June 1996, the Government of Canada requested consultations with the Government of Brazil concerning certain export subsidies granted under the Programa de Financiamento às Exportações (PROEX) to foreign purchasers of Brazil's Embraer aircraft. In accordance with Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), that request was notified to the Dispute Settlement Body (DSB) and the Committee on Subsidies and Countervailing Measures. The request was circulated to Members of the World Trade Organization on 21 June 1996 (WT/DS46/1).

The Brazilian measures in question include Provisional Measure 1700-15 replacing Provisional Measure 1629-13 and Law 8187 establishing PROEX; Law no. 8249/91; Decree no. 2414 of December 8, 1997; Resolutions of the National Monetary Council nos. 2490/98, 2452/97; 2381/97, 2380/97, 2224/95; Circular DIRIN 5; Resolution No. 50 of the Federal Senate of June 13, 1993; MICT Orders 28/98, 23/98, 7/98, 121/97, 83/97, 53/97, 34/97, 33/97 and MF/MICT Order 314/95; and Central Bank Circular no. 2601. These measures provide for the payment of export subsidies through interest rate equalization and export financing programmes under PROEX. The Government of Canada requested WTO consultations to address its concerns that these export subsidies were inconsistent with Brazil's obligations under the Agreement on Subsidies and Countervailing Measures (SCM Agreement).

Canada and Brazil held consultations in Geneva on 22 July 1996 and 25 July 1996 with a view to reaching a mutually satisfactory resolution of the matter. Additional consultations were held in Geneva on 4 November 1996, Brasilia on 21-22 November 1996, Rio de Janeiro on 8-9 June 1998, and Washington D.C. on 25-26 June 1998. Unfortunately, the consultations have failed to settle the dispute.

Pursuant to Articles 4 and 30 of the SCM Agreement, Canada requests that a Panel be established at the meeting of the DSB scheduled for 23 July 1998.

Canada further requests that the Panel consider and find that export subsidies under PROEX are inconsistent with Article 3 of the SCM Agreement. If the Panel so finds, Canada also requests that the Panel recommend that export subsidies under PROEX be withdrawn or terminated without delay pursuant to Article 4 of the SCM Agreement.

Canada asks that the Panel be immediately established in accordance with the accelerated procedure set out in Article 4 of the SCM Agreement with the standard terms of reference set out in Article 7 of the DSU. Canada further asks that this request for the establishment of a Panel be inscribed on the agenda of the meeting of the DSB scheduled for 23 July 1998.
