

Original: English

JAPAN - TAXES ON ALCOHOLIC BEVERAGES

Mutually Acceptable Solution on Modalities for Implementation

The following communication, dated 9 January 1998, from the Permanent Mission of Japan and the Permanent Mission of Canada, together with enclosures, is circulated to Members at the request of both delegations.

The Governments of Canada and Japan wish to notify the Dispute Settlement Body ("DSB") that they have reached a mutually satisfactory solution regarding the implementation by Japan of the conclusions and recommendations adopted by the DSB in the dispute "Japan - Taxes on Alcoholic Beverages". Accordingly, Canada and Japan consider that Article 21.6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes no longer requires that this item remain on the agenda of the DSB.

Please find attached the text of the exchange of letter of 16 and 19 December 1997 on this subject.

Enclosure 1: Letter Ambassador Mr. Takashi Tajima to Deputy Minister Robert G. Wright of Canada

I refer to the consultations between the officials of our two governments on the liquor tax issue. I am pleased to inform you that the Government of Japan (GOJ) has decided to take the following measures, whose adoption will be in accordance with the necessary domestic legislative procedures, to implement the recommendations and rulings of the WTO Dispute Settlement Body pursuant to the panel and the Appellate Body reports on "Japan - Taxes on Alcoholic Beverages".

Based on the outcome of the consultations referred to above, and having carefully considered the WTO's arbitration award issued on 14 February 1997, the GOJ will revise the current liquor tax scheme and will carry out tariff reductions and eliminations on the applied rate basis as described in detail in Annex 1, titled "Elements of Settlement for Dispute on Japanese Liquor Taxation", attached to this letter.

As compensation for the longer implementation period in the amended Liquor Tax Law for the new taxation scheme, from 1 April 1998 onward, the GOJ will eliminate tariff rates on the items in Annex 1 in stages as specified therein. For this purpose, the GOJ will submit a draft law amending the Customs Tariff Law and Temporary Tariff Measures Law to the next ordinary session of the Diet

to be convened in January 1998, and will do its utmost to obtain Diet approval of such an amendment. The GOJ will not raise tariff rates above those specified in Annex 1.

In addition, through the tariff reductions and eliminations to be provided by Japan as a result of negotiations on compensation regarding the liquor tax issue, Canada will receive at least comparable tariff reductions and eliminations to those which Japan will grant to the United States and the EC as shown in Annex 2, titled "The Tariff Rates", attached to this letter.

I confirm that at the request of either party consultations on the implementation or effects of any aspect of this mutually satisfactory solution to the liquor tax issue will be held expeditiously with a view to reaching a satisfactory solution.

I would appreciate your confirmation that implementation of the measures set out in this letter, together with the amendments to the Liquor Tax Law promulgated in March 1997, will be a mutually satisfactory solution to the dispute between Canada and Japan concerning the taxation of distilled spirits.

ANNEX 1

Elements of Settlement for Dispute on Japanese Liquor Taxation

1. The Government of Canada accepts the following elements as a mutually satisfactory solution for settling the liquor tax issue between Japan and Canada.
2. The Government of Japan (GOJ) has decided to take the following measures to implement the findings and conclusions of the WTO Panel Report on "Japan - Taxes on Alcoholic Beverages" as modified by the Appellate Body and adopted by the Dispute Settlement Body on 1 November 1996.

Revision of current liquor tax scheme

(Rates in yen per kilolitre per degree of alcohol)

	30 Sep. 1997	1 Oct. 1997	1 May 1998	1 Oct. 1998	1 Oct. 2000
		(Current)			
Whiskies	24, 558	13, 775	10, 225	10, 225	10, 225
Spirits	9,927	9,924	9,924	9,924	9,924
Liqueurs	8,217	9, 924	9,924	9,924	9,924
Shochu A	6,228	8,076	9,924	9,924	9,924
Shochu B	4,084	6,028	6,028	7,976	9,924

- (a) acceleration of the liquor tax rate adjustment for Whiskies and Shochu A by five months to be completed on 1 May 1998.
 - (b) acceleration of the liquor tax rate adjustment for Shochu B by a year to be completed on 1 October 2000.
3. The Government of Japan provides tariff eliminations/reductions on rye whisky and vodka as shown below and will also provide to Canada comparable tariff eliminations/reductions Japan will grant to the United States on whisky as a result of negotiations on compensation.

Tariff Reduction

Tariff rates for rye whisky and vodka will be reduced as shown in the table below. These tariff eliminations/reductions will be carried out on applied-rate basis and are subject to domestic procedure.

	As of April 1998	1999	2000	2001	2002	2003	2004
Rye whisky (HS 2208.30-021,029)	13.4%	10.6%	7.8%	5.0%	0%	0%	0%
Vodka (HS 2208.60-020)	16.0%	12.0%	8.0%	4.0%	0%	0%	0%

4. For "de minimis" and "reasonable period of time".

"It is confirmed that acceptance by the Government of Canada of the Japanese proposal to settle the dispute cannot be interpreted as in any way prejudging the position of the Government of Canada in the WTO with regard to the definition of "de minimis" differential including the appropriate base on which such differentials should be calculated, or the "reasonable period of time" for implementation".

ANNEX 2

The Tariff Rates

Categories	1 April 1998	1 April 1999	1 April 2000	1 April 2001	1 April 2002	1 April 2003	1 April 2004
HS 2208.20-100 Brandy	yen/litre 175.79	yen/litre 170.56	yen/litre 131.98	yen/litre 93.56	0	↑	↑
HS 2008.90-111 (See note 1)							
HS 2208.20-200 Brandy	yen/litre 207.80	yen/litre 201.60	yen/litre 156.00	yen/litre 110.60	0	↑	↑
HS 2208.90-119 Fruit Brandy (See note 2)							
HS 2208.30-011 HS2208.30-019 Bourbon whisky	10.3%	7.9%	5.4%	3.0%	0	↑	↑
HS 2208.30-031 Whisky (other) (See note 1)	yen/litre 183.62	yen/litre 175.32	yen/litre 133.81	yen/litre 77.00	0	↑	↑
HS 2208.30-032 Whisky (other) (See note 2)	yen/litre 152.40	yen/litre 145.60	yen/litre 111.20	yen/litre 77.00	0	↑	↑
HS 2208.40-000 Rum and tafia	18.0%	13.5%	9.0%	4.5%	0	↑	↑
HS 2208.50-000 Gin and Geneva (see note 3)	77.00 yen/litre 17.5%	57.75 yen/litre 13.1%	38.50 yen/litre 8.8%	19.25 yen/litre 4.4%	0	↑	↑

Categories	1 April 1998	1 April 1999	1 April 2000	1 April 2001	1 April 2002	1 April 2003	1 April 2004
HS 2208.70-000 Liqueurs and cordials	yen/litre 126.00	yen/litre 94.50	yen/litre 63.00	yen/litre 31.50	0	↑	↑

(Note 1) Of an alcoholic strength by volume of 50% vol or higher, excluding those in containers holding less than 2l

(Note 2) Other than Note 1

(Note 3) *Ad valorem* duty or specific duty, whichever lower, is applied for Gin and Geneva.

Enclosure 2: Letter from Deputy Minister Robert G. Wright of Canada to Ambassador Takashi Tajima, of Japan

In reply to your letter of 16 December 1997 and further to discussions that have taken place between various officials of our respective governments, I wish to inform you of the following:

The Government of Canada has reviewed the overall scheme that the Government of Japan has put forward as a response to the findings and conclusions of the July 1996 WTO Panel Report on "Japan - Taxes on Alcoholic Beverages" as modified by the report of the Appellate Body adopted by the Dispute Settlement Body on 1 November 1996.

This scheme and its implementation schedule were set out in respect of key alcoholic strengths for main market segments in Annex 1, "Elements of Settlement of Dispute on Japanese Liquor Taxation", attached to your letter of 16 December 1997, which reflects discussions between officials of our two governments.

Based on our review and those discussions, we have clarified certain details of the scheme including the fact that taxes to be levied on liquors between certain ranges of alcoholic strengths will be based on flat rates per litre of liquor rather than per degree of alcohol.

In addition, we have examined the proposed reduction and elimination of applied tariff rates on rye whisky (HS 2208.30-021 and 2208.30-029) and vodka (HS 2208.60-020) between April 1998 and April 2002, which Japan has offered as compensation for the longer implementation period for the new tax scheme.

The Government of Canada hereby confirms that, on the basis of Annex 1, this exchange of letters, together with the amendments to the Liquor Tax Law promulgated in March 1997, resolves the dispute on liquor taxes between Canada and Japan.

If the proposals are not implemented fully, Canada reserves its rights to resort to dispute settlement under the WTO agreements.

Other measures to be applied are as follows:

Through the tariff reductions and eliminations to be provided by Japan as a result of negotiations on compensation regarding the liquor tax issue, the Government of Japan will provide tariff reductions and eliminations on rye whisky and vodka as shown in Annex 1, and will also provide to Canada tariff reductions and eliminations at least comparable to those which Japan will grant to the United States and the EC as specified in Annex 2, title "The Tariff Rates", attached to your letter of 16 December 1997.

At the request of either party, consultations on the implementation or effects of any aspect of the revised Japanese tax scheme will be held expeditiously with a view to reaching a satisfactory solution. It is understood in this context that any discriminatory effects on Canadian liquors resulting from the revised Japanese tax scheme will be corrected through appropriate adjustments to the tax structure within a reasonable time period to remove such discriminatory effects. Canada also reserves its rights to address such issues, if necessary, in the context of WTO dispute settlement.

The current Japanese definitions of products will not be amended in such a way as to have adverse effects on Canadian exports. These definitions are those referred to in the WTO panel report

as well as those given in the course of Canada's evaluation of the revised scheme (notably those referring to "mixed drinks") and will be the ones valid for the amended liquor tax law that Japan started to implement on 1 October 1997.

Furthermore, it is confirmed that acceptance by the Government of Canada of the Japanese proposals to settle the dispute cannot be interpreted as in any way prejudging the position of the Government of Canada in the WTO with regard to the definition of "de minimis" differentials, including the appropriate base on which such differentials should be calculated, or the "reasonable period of time" for implementation.

Finally, based on a statement made by Japanese representatives during bilateral discussions, the Government of Canada understands that the Shochu B subsidy programme will be maintained only within the framework of Japan's obligations under the WTO Agreement on Subsidies and Countervailing Measures and is not designed in such a way as to have adverse effects on Canadian exports.
