

d) *Canada - Measures Affecting the Export of Civilian Aircraft*

On March 10, 1997, Brazil requested consultations with Canada pursuant to Article 4 of the *Agreement on Subsidies and Countervailing Measures* (SCM Agreement). Consultations were held in Geneva on April 30, 1997, but failed to resolve the dispute. Brazil requested a panel, alleging that certain programmes and measures maintained by Canada or its provinces are inconsistent with Article 3 of the SCM Agreement. A panel was established pursuant to Brazil's request at the DSB meeting on July 23, 1998. The interim report was issued on February 17, 1999 and the final report was issued on March 12, 1999. The panel declared that Technology Partnerships Canada and the Canada Account are inconsistent with the Agreement on Subsidies and Countervailing Measures and must be withdrawn within 90 days.

Canada filed a notice of appeal of this decision on May 3, 1999. The appeal was heard on June 14, 1999. On August 2, 1999, the Appellate Body upheld the original panel findings and the appeal's ruling was formally adopted on August 20. The deadline for implementation of the ruling is November 18, 1999.

e) *Canada - Dairy Export Pricing/Milk TRQ*

On October 10, 1997, the United States requested consultations under Article XXII of the GATT on the export pricing mechanism used for sale of milk by provincial marketing boards and on Canada's tariff-rate quotas (TRQ) for consumer milk imports. New Zealand requested its own consultations with respect to the export pricing issue on December 29, 1997.

A single panel for both the U.S. and New Zealand complaints was established on March 25, 1998. The panel found Canada's export measures to be inconsistent with our WTO obligations under that Agreement on Agriculture and our TRQ measures to be inconsistent with our WTO commitments under Article II of the GATT 1994. The final report was issued to all WTO members on May 17, 1999.

Canada appealed the report on July 15, 1999. The hearing before the Appellate Body took place on September 6, 1999 and the Appellate Body is expected to release its report on October 13, 1999.

### 3. **NAFTA INVESTOR-STATE DISPUTE SETTLEMENT**

Chapter Eleven of the North American Free Trade Agreement (NAFTA) establishes obligations of each of the NAFTA parties to respect and provide a mechanism for settlement of disputes between investors and NAFTA parties in respect of such obligations. The substantive obligations to investors and the dispute-resolution process under Chapter Eleven are similar to provisions found in numerous other investment treaties that have been concluded between countries over the years, including Canadian foreign investment protection agreements and U.S. bilateral investment treaties.

The obligations to investors are contained in Section A of Chapter Eleven. Examples are obligations of a NAFTA party to provide to investments and investors of other NAFTA parties national or most-favoured-nation treatment; an obligation not to impose requirements on investors or investments for domestic content or local preference; an obligation not to expropriate or take measures tantamount to expropriation of an investment except on certain