

76. In a report issued on August 10, 1998, the investment bankers Bear Stearns gave the following advice to prospective customers of Embraer aircraft:

“Finally, cognizant that a WTO decision is eminent [*sic*] and may result in the ending of an attractive subsidy, any remaining potential customers who were considering a future purchase may decide to anticipate orders with Embraer over the 12 months before the ruling is handed down.”⁸³

77. The particular circumstances of the regional aircraft market require that the Panel fashion a specific remedy in respect of subsidies granted to induce sales *in anticipation of an adverse ruling by the Panel*, as termination of PROEX subsidies after the adoption of the Panel report would not, in such circumstances, redress the harm that would be caused by such subsidies. Accordingly, Canada requests that the Panel recommend the withdrawal of subsidies granted pursuant to transactions entered into in the period following the composition of the Panel on October 22, 1998.

78. Canada submits that “without delay” in respect of new subsidy arrangements must mean as of the date of adoption of the Report of the Panel by the DSB. Canada further submits that “without delay” in respect of existing subsidies or subsidies already granted means as soon as practicable to terminate the arrangements and, in any event, no later than ninety days after the adoption of the Report of the Panel by the DSB.

⁸³ *Op. cit.*, Documentary Annex tab 32, at 13.