

# News Release

Minister for  
International  
Trade



# Communiqué

Ministre du  
Commerce  
extérieur

No. 064

March 30, 1989.

## CANADA TO SEEK AUTHORITY TO TAKE ACTION AGAINST USA

### FOR FAILURE TO ABIDE BY GATT PANEL RULING

International Trade Minister John C. Crosbie today announced that Canada is taking action to secure authority from the GATT to withdraw concessions from the United States because of its failure to implement the ruling of the GATT "Superfund" Panel.

A GATT Panel, formed at Canada's request, ruled that the USA's discriminatory tax on imported oil, which was imposed under the October 1986 Superfund legislation, is inconsistent with GATT rules.

In the period since the Panel report was adopted in June 1987, Canada has pressed the USA both in the GATT and bilaterally to take the necessary action to remove the discrimination in this tax. No such action has been forthcoming from the United States.

Canada subsequently proposed that the USA provide compensation pending the removal of the inconsistent measure. The USA has not responded to this suggestion.

"Canada has exhausted all other options to protect our rights under the GATT," commented Minister Crosbie. "Our preference is that the United States remove this discriminatory tax. We are not interested in retaliatory action for its own sake, nor will we act unilaterally. Instead, Canada will proceed in accordance with its GATT obligations which require us to seek authorization from the GATT in order to withdraw equivalent concessions."

"We will of course be consulting domestically on any potential areas where we would be looking at retaliation," Mr. Crosbie added.

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The Superfund legislation imposes a tax of 11.7 cents (U.S.) per barrel on imported oil as compared with 8.2 cents per barrel for domestic oil. The discriminatory tax adds approximately \$10 million (Canadian) to the cost of oil imported into the USA from Canada.

For further information, contact:

Media Relations Office  
Department of External Affairs  
(613) 995-1874

**PRESS BACKGROUNDER ON**  
**THE GATT DISPUTE SETTLEMENT SYSTEM**

-The purpose of the GATT dispute settlement system is to bring about the removal of GATT-inconsistent measures in order to assure the security of access to markets provided by the multilateral trading system.

-When a dispute settlement Panel has found a measure to be inconsistent with the GATT and the report of the Panel has been adopted by the GATT Council, the offending party has a reasonable period within which to bring its measures into conformity with the GATT rules.

-Should a party fail to implement such a Panel ruling, the GATT provides a mechanism for an injured party to rebalance trade concessions. Under Article XXIII:2 the injured party or parties may request authority from the GATT Council to suspend "substantially equivalent concessions" (i.e. retaliation). Alternatively, the affected party could also agree to accept compensation from the offending country, usually in the form of reduced tariffs.

-A contracting party can legally retaliate only if the action is formally authorized by the GATT members. Compensation is by mutual agreement of the parties to the dispute and does not have to be authorized by the GATT.

-Compensation or retaliation normally would be limited to an amount equivalent to the damage caused, and would only be maintained until the inconsistent measure was brought into conformity. Neither, however, is intended as a substitute for maintaining a GATT inconsistent measure.

**Superfund**

-The United States enacted the "Superfund" legislation in October, 1986 to provide \$8.5 billion to clean up environmental problems such as toxic waste dumps.

-Canada has supported the principle of the Superfund, but has objected to the use of a GATT inconsistent tax to finance this programme.

-A GATT Panel, established at the request of Canada, the European Community and Mexico, determined that the discriminatory aspect of the tax was in violation of the GATT rules, and recommended that the USA modify its legislation to bring it into conformity with the GATT. The Panel report was adopted by the GATT Council in June 1987 with USA support.