

## **Request for Clarifications 2**

### **QUERY 1:**

When looking at the oil export tax, is it safe to assume that the United States did not agree to it as part of the Montebello Summit Joint Statement?

### **ANSWER:**

The occurrence of the Montebello Summit is a real fact as are the agreements of Canada and the United States (and Mexico) coming out of that Summit. Please conduct thorough research to obtain your answer.

### **QUERY 2:**

Are the APHIS user fees directly connected the paying for the Western Hemisphere Travel Initiative or are they two distinct programs? (i.e. Did the United States remove the Canadian exemption to pay for a thicker border, through the WHTI?)

### **ANSWER:**

These two measures are real facts. Please conduct thorough research to obtain your answer.

### **QUERY 3:**

Our team has been working on the assumption that the fuel pipeline runs only between Canada and the US, but does not implicate Mexico in any way. Can you confirm or contradict this assumption?

### **ANSWER:**

The existence of pipelines are real facts. Please conduct thorough research to obtain your answer.

### **QUERY 4:**

Does the reference in the 2d paragraph on page 6 to the APHIS fee refer to the entire fee schedule including all modes of transportation, customs and border fees?

### **ANSWER:**

The question is not clear. The APHIS fee is a real measure. Canada is complaining about the measure in all its forms.

**QUERY 5:**

What is the predicted income for Canada for the export charges? For the US for the removal of the exemption? In other words, what is the cost-benefit?

**ANSWER:**

Canada expects to raise sufficient revenues to pay for the security measures requested by the United States.

**QUERY 6:**

Did the United States ever provide notice to the Council for Trade in Services in compliance with GATS Article 14(2)?

**ANSWER:**

It is fair to assume that all procedural steps have been taken so that the ICJ has jurisdiction over this matter.

**QUERY 7:**

The Compromis states that Canada uses the Canadian Softwood Lumber Export Charge act of 2006 as a precedent for the Fuel Export Charge. In the following sentence the Compromis discusses some of the procedural facts regarding the Fuel Export charge. Should we assume that the precedent was for the procedural implementation or that the "precedent" spoken of was more generally regarding trade tariffs?

**ANSWER:**

Canada considered the United States' recommendation and approval of the Softwood Lumber Export Charge when considering the Fuel Export Charge as an option. Canada also has followed the Softwood Lumber Export Charge Act of 2006 when drafting the legislation for the Fuel Export Charge and the administrative procedures because the model had been acceptable to the United States in the case of the Softwood Lumber Export Charge.

**QUERY 8:**

We were developing an argument regarding WTO Article XXIII.

We had read that article XX and XXI disputes are typically handled through the dispute resolution mechanisms of article XXIII. This would require that a nation with a grievance first bring their action to the attention of the violating nation, which must give some 'sympathetic consideration' of the matter at hand. If this fails to produce a resolution of the matter the Dispute Settlement Board makes a ruling, which must be agreed to or, the party must withdraw from the treaty.

The Compromis is rather short on the issue of referring the matter to the ICJ, however are we to assume that the ICJ still adopts the Dispute Settlement Boards standards?

- Are we to assume this matter went through the DSB?
- Do the precedents and procedures regarding the DSB have weight for the ICJ?
- Is there any relevant additional procedural history?
- Have these questions entered into the Jurisdictional area that we are supposed to avoid?

**ANSWER:**

There is no other procedural history. Assume that the appropriate steps were taken and both Canada and the United States have agreed to the ICJ's jurisdiction. Whether the ICJ is or is not the proper jurisdiction for this matter is not an issue for the students to argue.