

# Interantional business



Case 7-2: Japan-Taxes on Alcoholic Beverages Facts: The judicial body of the court is the World Trade Organization (WTO) and its jurisdiction that spans through the practice of decision making by consensus followed under the GATT 1947 (August, 2004). Through the WTO and consensus, the WTO can make decision by votes if a consensus is not reached. The countries involved, Canada, the European Union, The United States and Japan are members of the WTO. One of the structures of the WTO is in the dispute settlement body and trade policy review, as it would be applicable in this case. The dispute settlement body through a panel or " Dispute Settlement Panel" can monitor, implement rulings and make recommendations should a dispute arises. The panel should act objectively while conforming to the WTO agreements in finding a solution that would resolve the dispute (August 2004).

Procedure: The facts in this case arose from the World Trade Organization (WTO), Dispute Settlement Panel, in which several countries that included Canada, the European Union, and the United States alleges that Japan imposed lower taxes on shochu (locally produced alcoholic beverage) than other imported alcoholic beverage, like vodka in violation of Article III, paragraph 2, of the 1994 General Agreement on Tariffs and Trade (August, 2004). The case reached this point based on the report by the panel claiming that the GATT Article III. 2 is inconsistent with the Japanese Liquor Tax. The GATT Article III. 2 indicates that a product imported should be subject directly or indirectly to internal taxes or other internal charges in excess of those applied, like domestic products (August, 2004).

Issue(s): The legal issues surrounding this case begins with the recognition of the Article III. 2 where it states, " so as to afford protection" as depicted in

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Article III. 1 (August, 2004). Based on this argument, the panel made reference that according to " the aim and effect test" the complainant in this case has the burden of showing not only the effect of a particular measure but its aim. On the other hand, the United States referred to the " aim and affect" applicable to origin neutral measures, which the panel rejected since it is not included any of the Articles III.: 1 or III. 2. The panel decided that it would be up to the complainant to produce prima-facia evidence and have the defending party rebut the claim. The panel also realized that the term like products appears in various GATT provisions; therefore, agreeing that it should be interpreted on a case-by-case basis. In this case, the panel was able to find that shochu, vodka did share common physical characteristics, and that a previous decision had been made in a 1987 report. Furthermore, the panel proceeded to examine whether vodka is taxed in excess of the tax imposed on shochu under the Japanese liquor law (August 2004). According to the WTO, members are free to choose any system of taxation provided that they do not impose on foreign product taxes in excess of those imposed on domestic products.

Holding: The decision was that the tax imposed on vodka was in excess of the tax on shochu. Japan, therefore was in violation of its obligation under Article III. 2. Also, the panel discovered that shochu along with whisky, brandy, rum and gin are directly competitive and since Japan is not taxing them they are in violation under Article III. 2, the General Agreement on Tariffs and Trade 1994 (August, 2004). Since Japan was held accountable, they were instructed to bring the liquor tax law in conformity with the General Agreement on Tariffs and Trade 1994.

Reasoning: The rationale behind this decision by the WTO, " Dispute

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Settlement Panel" was due to the result of the testing where vodka was taxed at 3, 777, 230 yen per kiloliter and shochu at 155, 700 yen per kiloliter, considerably higher. Also, the panel was following the benchmark in Article III. 2 in the first sentence relating to internal taxes on a foreign product should not be imposed in excess of those imposed on a domestic product. The panel also noticed the argument made by Japan based on the methodology that vodka was tax higher based on the higher volume of alcohol than shochu. Although, the panel noticed Japan's problems and discrepancies in calculating such data, which makes the argument inconclusive in substantiating Japan's argument. The panel also noticed Japan's intention with their tax price ratio being much lower on domestic spirits, whisky and brandy; making it more difficult for cheaper imported brands such as whisky, brandy and spirit to enter the Japanese market and maintain a competitive advantage. Lastly, the panel looked at the contested legislation where there were no indication that the purpose was to maintain roughly constant tax price ratio and rather a rationalization act by Japan, in which they could not guarantee that the tax price ratio would be maintained.

Concurring/dissenting opinions: This case is important since it outlines the problems that could arise with an imported product and the internal taxes that could be imposed. Also, the decision by the WTO is significant in the international business and countries of the world, which are either part of the WTO or affiliated to abide by their decision making process. For a business manager, this is significant in case a rise on foreign tax could offset the market and revenue would decrease as a result. Also, as a business manager you could make reference to the judicial body that made the decision on a <https://assignbuster.com/interantional-business/>

particular product that could be similar to other products being sold from the host country. Therefore, decisions made today on a particular case could be used as a case law for future dispute settlements.

#### Reference List

August, R. (2004). International Business Law: Text, Cases, and Readings (4th edition).

United States: Prentice Hall.