

Original: English

JAPAN - TAXES ON ALCOHOLIC BEVERAGES

Mutually Acceptable Solution on Modalities for Implementation

The following communication, dated 9 January 1998, from the Permanent Mission of Japan and the Permanent Mission of the United States, together with enclosures, is circulated to Members at the request of both delegations.

The Governments of the United States of America and Japan wish to notify the Dispute Settlement Body ("DSB") that they have reached a mutually satisfactory solution regarding the implementation by Japan of the conclusions and recommendations adopted by the DSB in the dispute "Japan - Taxes on Alcoholic Beverages" (WT/DS11/8). Accordingly, the United States and Japan consider that Article 21.6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes no longer requires that this item remain on the agenda of the DSB.

Please find attached the text of the exchange of letters of 15 December 1997 on this subject.

Enclosure 1: Letter from Ambassador Kunihiko Saito of Japan to Ambassador Charlene Barshefsky of the United States

I refer to the consultations between the officials of our two governments on the liquor tax issue, the most recent sessions of which were held in Vancouver in November, in Geneva and in Washington, D.C. in December 1997. I am pleased to confirm, on behalf of the Government of Japan (GOJ), that the GOJ has decided to take the following measures, whose adoption will be in accordance with the necessary domestic legislative procedures, to implement the recommendations and rulings of the WTO Dispute Settlement Body pursuant to the panel and the Appellate Body reports on "Japan - Taxes on Alcoholic Beverages".

Based on the outcome of the consultations referred to above, and having carefully considered the WTO arbitration award issued on 14 February 1997, the GOJ will revise the current liquor tax scheme as described in detail in Annex A to this letter, and will carry out tariff eliminations and reductions on the applied rate basis as described in detail in Annex B to this letter.

As compensation for the longer implementation period in the amended Liquor Tax Law for the new taxation scheme, from 1 April 1998 onward, the GOJ will apply reduced tariff rates and in some cases zero tariffs on the items in Annex B to this letter as specified therein. For this purpose the GOJ will submit a draft law amending the Customs Tariff Law and the Temporary Tariff Measures

Law to the next ordinary session of the Diet to be convened in January 1998, and will do its utmost to obtain Diet approval of such an amendment. The GOJ will not raise tariff rates above those specified in Annex B. Furthermore, the GOJ will apply the rates listed in Annex B in full recognition that Japan's WTO bound rates are higher and intends to bind these tariff reductions in the WTO at the next possible opportunity to modify the Schedule of Japan following a multilateral, multisectoral negotiation. In addition, the United States will receive at least comparable tariff eliminations/reductions to those which Japan may grant to the EC, Canada or any other WTO Members (if any) as a result of negotiations on compensation regarding the liquor tax issue.

Any measures, including subsidies, to be taken for domestic producers of distilled spirits in relation to the settlement of the liquor tax issue will be fully consistent with the GOJ's obligations under the WTO Agreement, and will in no way nullify or impair the benefits provided by the GOJ to the United States as a result of this mutually satisfactory solution to the liquor tax issue.

With regard to subsidies, tax measures or other measures of Japan that may alter the conditions of competition between imported and domestic distilled spirits, the GOJ confirms that it cannot be anticipated that the United States Government (USG) is aware of existing measures other than those listed in Annex C.

In addition, the GOJ confirms that it will neither grant nor maintain subsidies or special tax measures or other measures benefiting domestic producers of distilled spirits which would have effect of displacing or impeding the export to Japan of distilled spirits from the United States and other countries.

The GOJ will provide the USG, upon request, relevant information on such measures for domestic producers of distilled spirits unless such information is of a confidential nature and its provision would impede enforcement of domestic laws and regulations or would prejudice the legitimate commercial interests of particular enterprises.

I confirm that at the request of either party, consultations on the implementation or effects of any aspect of this mutually satisfactory solution to the liquor tax issue will be held expeditiously with a view to reaching a satisfactory solution.

I would appreciate your confirmation that implementation of the measures set out in this letter, together with the amendments to the Liquor Tax Law promulgated in March 1997, will be a mutually satisfactory solution to the dispute between the United States and Japan concerning the taxation of distilled spirits.

ANNEX A

The Liquor Tax Rates

Categories	Degree of Alcohol Content	(per kilolitre)					
		30 Sep. 1997	1 Oct. 1997 30 Apr. 1998	1 May 1998 30 Sep. 1998	1 Oct. 1998 30 Sep. 2000	1 Oct. 2000	
Shochu A	25 degrees	(¥6, 228) ¥155,700	(¥8,076) ¥201,900	(¥9, 924) ¥248,100	(¥9,924) ¥248,100	(¥9,924) ¥248,100	
Shochu B	25 degrees	(¥4,084) ¥102,100	(¥6,028) ¥150,700	(¥6, 028) ¥150,700	(7,976) ¥199,400	(¥9,924) ¥248,100	
Whiskies	40 degrees	(¥24,558) ¥982,300	(¥13,775) ¥551,000	(¥10, 225) ¥409,000	(¥10,225) ¥409,000	(¥10,225) ¥409,000	
Spirits	37 degrees	(¥9,927) ¥367,300	(¥9,924) ¥367,188	(¥9,924) ¥367,188	(¥9,924) ¥367,188	(¥9,924) ¥367,188	
Liqueurs	12 degrees	(¥8,217) ¥98,600	(¥9,924) ¥119,088	(¥9,924) ¥119,088	(9,924) ¥119,088	(¥9,924) ¥119,088	

(Note) The rates in brackets are tax rates per kilolitre per degree of alcohol.

ANNEX B

The Tariff Rates

Categories	1 April 1998	1 April 1999	1 April 2000	1 April 2001	1 April 2002	1 April 2003	1 April 2004
HS 2208.30-011							
HS 2208.30-019	10.3%	7.9%	5.4%	3.0%	0%		↑
Bourbon whisky							
HS 2208.40-000	18.0%	13.5%	9.0%	4.5%	0%		↑
Rum and tafia							
HS 2208.50-000	77.00 yen/litre	57.75 yen/litre	38.50 yen/litre	19.25 yen/litre	0		↑
Gin and Geneva							
(See note)	17.5%	13.1%	8.8%	4.4%	0%		↑
HS 2208.60-020	16.0%	12.0%	8.0%	4.0%	0%		↑
Vodka							
HS 2208.70-000	yen/litre 126.00	yen/litre 94.50	yen/litre 63.00	yen/litre 31.50	0		↑
Liqueurs and cordials							

(Note) *Ad valorem* duty or specific duty, whichever lower, is applied for Gin and Geneva

Annex C

WORLD TRADE
ORGANIZATION

G/SCM/N/25/JPN
17 November 1997

(97-5026)

Committee on Subsidies
and Countervailing Measures

Original: English

SUBSIDIES

Updating Notifications Pursuant to Article XVI.1 of the GATT 1994 and Article 25
of the Agreement on Subsidies and Countervailing Measures

JAPAN

The following communication, dated 7 October 1997, has been received from the Permanent Mission of the Japan.

Japan submits this notification in accordance with its obligations under Article XVI.1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures. This notification does not prejudge the legal status, effects or nature of the notified programmes or measures under GATT 1994 and the Agreement on Subsidies and Countervailing Measures.

FINANCIAL MEASURES FOR SHOCHU B MANUFACTURERS

1. Title of the subsidy programme

Financial Measures for Shochu B Manufacturers

2. Period covered by the notification

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3. Policy objective and/or purpose of the subsidy

To reform the structure of Shochu B industry and to help the modernization of its environment protection facilities.

4. Background and authority for the subsidy

The Ministry of Finance.

5. Legislation under which it is granted

Special Measures Law concerning the stability of the Sake Brewing and Related Manufacture.

6. Form of the subsidy (i.e. grant, loan, tax concession, etc.)

Interest-free loan to "the Shochu B Manufactures Industry Funds" and Grants

7. To whom and how the subsidy is provided

Japan Brewers Association.

8. Subsidy per unit, or in cases where this is not possible, the total amount or the annual amount budgeted for that subsidy

- The Funds' running profit: ¥1.06 billion
- Grants from the State budget: ¥0.33 billion

9. Duration of a subsidy and/or any other time limits attached to it

Duration of the interest-free loan is limited to ten years.

10. Statistical data permitting an assessment of the trade effects of a subsidy¹

Quantity of Shipment of Shochu B

(kl)

Year	1994	1995	1996
Domestic	287,211	296,621	318,076
Import	43	42	537
Total	<u>287,254</u>	<u>296,663</u>	<u>318,613</u>

Enclosure 2: Letter from Ambassador Charlene Barshefsky of the United States to Ambassador Kunihiro Saito of Japan.

I am pleased to receive your letter of today's date concerning the liquor tax issue.

I confirm on behalf of the United States Government, that his exchange of letters, together with the amendments to the Liquor Tax Law promulgated in March 1997, resolves the dispute on liquor taxes between the United States and Japan.

I welcome the commitments made by your Government with regard to subsidies and other measures in relation to the settlement of the liquor tax issue. I also welcome the GOJ's commitment expressed in your letter to provide relevant information on measures for domestic producers of distilled spirits.

I note that it is jointly understood that acceptance by the United States of Japan's proposals to settle this dispute cannot be interpreted as in any way prejudging the position of the United States in the WTO with regard to the definition of *de minimis* differentials or the "reasonable period of time" for implementation. In particular, this arrangement is without prejudice to the question of whether the differential in tax rates between brown and white spirits that will remain as of 1 October 2000 is a *de minimis* differential or would constitute a *de minimis* differential in any other market or under any other factual circumstances.

This exchange of letters is without prejudice to the rights and obligations of the United States under the WTO Agreement. If this mutually satisfactory solution to the liquor tax issue is not implemented fully, the United States reserves its rights to resort to dispute settlement under the WTO Agreement.

¹ Statistics of production, consumption, imports and exports:
(i) for the three most recent years for which statistics are available;
(ii) for a previous representative year, which, where possible and meaningful, should be the latest period preceding the introduction of the subsidy or preceding the last major change in the subsidy.