

**INDIA – CERTAIN TAXES AND OTHER MEASURES ON
IMPORTED WINES AND SPIRITS**

Request for Consultations by the European Communities

Addendum

The following communication, dated 15 December 2008, from the delegation of the European Communities to the delegation of India and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

The European Communities hereby requests supplementary consultations¹ with India pursuant to Article 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (DSU) and Article XXII:1 of the *General Agreement on Tariffs and Trade 1994* (GATT 1994) regarding discriminatory taxation applied on imported bottled wines by the Indian state of Karnataka. These measures adversely affect exports of wines and spirits (codes 22.04, 22.05, 22.06 and 22.08 of the Harmonised System) from the European Communities to India.

Discriminatory taxation applied by the Indian State of Karnataka

The European Communities understands that the State of Karnataka appears to apply the "additional special fee" and the "special fee" in a way that subjects imported wines to internal taxes in excess of domestic like products. Notification IV No FD 20 PES 2005 of 27 September 2008 amending the Karnataka excise (excise duties and fees), Rules, 1968 sets a new "additional special fee" at the rate of 300 RS/per bulk litre for wine manufactured outside India and imported into Karnataka. The "additional special fee" is not applied on domestic in-state like products. The "special fee" appears to tax imported bottled wines in excess of domestic in-state like products.

The measures in question include but are not limited to:

- The Karnataka Excise Act 1965;
- The Karnataka excise (excise duties and fees) rules 1968, as amended by the Karnataka excise (excise duties and fees) rules 2003 and Notification No FD 20 PES 2005 of 27 September 2008, including Notification IV therein;
- Notification No FD 02 PES 2008 of 1 April 2008.

¹ This request supplements the request of consultations entailed in document WT/DS380/1, G/L/855, G/SCM/D79/1 dated 25 September 2008 with regard to measures not mentioned in the latter request.

The European Communities considers that these measures are inconsistent with *Article III, paragraph 2* of the GATT 1994. In particular:

- The "additional special fee " is inconsistent with India's obligations under Article III:2 of the GATT 1994, because it subjects imported BIO bottled wines to internal taxes that are in excess of internal taxes applied on domestic like products;
- The "special fee" is inconsistent with India's obligations under Article III:2 of the GATT 1994, because it subjects imported BIO bottled wines to internal taxes that are in excess of internal taxes applied on domestic like products.

The European Communities considers that these measures also nullify or impair the benefits accruing to the European Communities under the GATT 1994.

For each of the measures referred to in this document, the request for consultations also covers any amendments, replacements, extensions, implementing measures and the related measures.

The European Communities reserves the right to address additional measures and claims under other provisions of the WTO Agreement regarding the above matters during the course of the consultations.

The European Communities looks forward to receiving in due course a reply from India to this request. The European Communities is ready to consider with India mutually convenient dates to hold consultations.
