

**PERU – TAXES ON CIGARETTES**

Request for Consultations by Chile

The following communication, dated 1 March 2001, from the Permanent Mission of Chile to the Permanent Mission of Peru and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

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My authorities have instructed me to request consultations with the Government of Peru pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes and Article XXII of the General Agreement on Tariffs and Trade 1994 (GATT 1994) regarding the differential taxation of cigarettes introduced by Supreme Decree No. 158-99.

By virtue of the authority granted under Article 61 of the new text of the General Sales Tax and Selective Consumption Tax Law, Supreme Decree No. 158-99-EF of 25 September 1999 modifies appendices III and IV of that Law, which identify the goods subject to the selective consumption tax. Article 1B of the said Supreme Decree amends the tax applied to cigarettes made of dark tobacco, cigarettes made of standard bright tobacco and cigarettes made of premium bright tobacco, setting a different specific tax for each one of these categories of cigarettes ranging from S/0.025 to S/0.100 per unit.

The difference in the amount of the tax appears to be contingent only on the number of countries in which the different commercial brands of cigarettes are marketed – more than three or less than three – a criterion which is a source of concern for my Government, since it could signify discrimination against imported cigarettes, from Chile for example, which, being marketed in more than three countries, are subject to a higher tax than local brand cigarettes. This situation, which is damaging to Chilean cigarette exports to Peru, could constitute a violation of the GATT 1994 – in particular, but not necessarily exclusively, of Article III.2 of the GATT 1994 – and of a repeated Appellate Body jurisprudence in this area.

The Government of Chile looks forward to receiving a prompt reply from your Government to this request for consultations and to setting a mutually convenient date on which to hold them.

My Government reserves the right to raise other factual or legal claims in the course of the consultations.

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