

**DOMINICAN REPUBLIC – MEASURES AFFECTING
THE IMPORTATION OF CIGARETTES**

Request for Consultations by Honduras

The following communication, dated 28 August 2003, from the Permanent Mission of Honduras to the Permanent Mission of the Dominican Republic and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

This is to inform you that I have received instructions from the authorities of my country to request consultations with the Dominican Republic pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes and Article XXIII:1 of the General Agreement on Tariffs and Trade 1994 (GATT 1994) concerning certain measures affecting the importation of cigarettes from Honduras to the Dominican Republic.

The Government of Honduras is concerned at the following measures:

- (1) The determination of the taxable base for the Selective Consumption Tax, particularly as applied to cigarettes, as laid down in: (i) Article 367 of the Tax Code of the Dominican Republic; (ii) Article 3 of the Regulations Governing the Application of Title IV of the Tax Code (hereinafter "the Regulations"); (iii) the other laws, rules, regulations or administrative provisions relating to the above; (iv) the laws, rules, regulations or administrative provisions supplementing or amending any of the above; (v) surveys conducted or published by the Central Bank of the Dominican Republic in accordance with which the taxable base is determined; and (vi) administrative practices implementing the above;
- (2) the requirement that the stamps to be affixed (under Article 37 of the Regulations) should be affixed in the territory of the Dominican Republic under the supervision of the tax authorities, in accordance with Article 37 of the Regulations and supplementary or amending provisions as well as the relevant administrative practice;
- (3) the requirement that importers (including importers of cigarettes) post a bond as a prerequisite to importing, pursuant to Article 14 of the Regulations and supplementary or amending provisions as well as the relevant administrative practice.

Honduras considers that the above-mentioned measures create undue difficulties for its exports to the Dominican Republic and nullify or impair the benefits accruing to Honduras under the WTO Agreement.

Honduras is of the opinion that the determination of the taxable base results in less favourable treatment for cigarettes from Honduran exporters in comparison to like domestic products or like products imported from other WTO Member countries, and is therefore inconsistent with Articles III.2 and I.1 of the GATT 1994; that in relation to Article III.2, the requirement to affix the stamp in the territory of the Dominican Republic under the supervision of the tax authorities results in less favourable treatment for imported cigarettes in comparison to the like domestic products and is therefore inconsistent with Article III.4 of the GATT 1994; that the requirement to post a bond as a prerequisite to the importation of cigarettes constitutes a "charge" different from a customs duty and is therefore inconsistent with Article II.1(b) of the GATT 1994, or otherwise constitutes a "restriction" on the importation of cigarettes, and is therefore inconsistent with Article XI.1 of the GATT 1994.

For all of these reasons, Honduras requests consultations with the Dominican Republic in order to secure a positive solution to this matter.

I propose that the consultations, within the framework of the Understanding on Rules and Procedures Governing the Settlement of Disputes, take place in Geneva, and await to hear from you the date which you consider convenient.

The authorities of my country look forward to receiving your reply to this request.
