

PERU - TAXES ON CIGARETTES

Communication from Chile

The following communication, dated 12 July 2001, from the Permanent Mission of Chile to the Chairman of the Dispute Settlement Body, is circulated at the request of that delegation.

With reference to the dispute *Peru - Taxes on Cigarettes* (WT/DS227), for which a Panel was established on 20 May 2001, I am pleased to inform you that the measure disputed by Chile, i.e. the specific selective consumption tax system applied to cigarettes in Peru and contained in Supreme Decree No. 158-99-EF of 25 September 1999, was amended on 30 June 2001 with the publication of Supreme Decree No. 128-2001 of the Ministry of the Economy and Finance of Peru, which entered into force on 1 July 2001. As from that date, cigarettes are subject to the common selective consumption tax system at a rate of 100 per cent, regardless of their origin, price, type or quality of tobacco and/or the number of sales markets.

This amendment in the tax regime applicable to cigarettes is the result of an indisputable and unappealable ruling of the Constitutional Court of Peru on 19 June 2001. Following a request by the company British American Tobacco (South America) Ltd. Sucursal del Perú, the Constitutional Court ruled that Supreme Decree No. 158-99-EF did not apply to that company, citing, among other reasons, that it established "an arbitrary classification, which granted preferential treatment to a category of cigarettes, favouring certain producers and/or marketers over others", thus violating the principle of equality before the law.

As the disputed measure has now disappeared, the Government of Chile would like to terminate the Panel composition stage and formally withdraw this matter from further attention under the provisions of the Dispute Settlement Understanding.

Chile would like to take this opportunity to express its satisfaction at this evidence of the strength of Peru's legal institutions. We would also like to thank the authorities of that country for bringing the new tax scheme into force so rapidly, thereby enabling the cigarette exporting companies, in particular in Chile, to compete in the Peruvian market on an equal footing.
