

**CHILE – TAXES ON ALCOHOLIC BEVERAGES**

Notification of an Appeal by Chile under  
paragraph 4 of Article 16 of the Understanding on Rules  
and Procedures Governing the Settlement of Disputes (DSU)

The following notification, dated 13 September 1999, sent by Chile to the Dispute Settlement Body (DSB), is circulated to Members. This notification also constitutes the Notice of Appeal, filed on the same day with the Appellate Body, pursuant to the *Working Procedures for Appellate Review*.

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In conformity with paragraph 4 of Article 16 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) and Rule 20 of the Working Procedures of Appellate Review, the Government of Chile hereby notifies its decision to lodge an appeal with the Appellate Body in connection with certain issues of law in the Report of the Panel on "*Chile – Taxes on Alcoholic Beverages*" (WT/DS87/R; WT/DS110/R), circulated to the WTO Members on 15 June 1999, as well as certain legal interpretations developed by the Panel.

Chile asks the Appellate Body to review the following errors of law and erroneous legal interpretation developed by the Panel in relation to the DSU and the General Agreement on Tariffs and Trade 1994 (GATT 1994).

First, Chile considers that the Panel erred as a matter of law and legal interpretation in finding that the New Chilean Tax system constitutes 'dissimilar taxation' of directly competitive or substitutable products within the meaning of Article III:2, second sentence GATT 1994:

- The Panel erred in law in the interpretation and application of the concept of 'not similarly taxed' as it is used in Article III:2, second sentence. Among other things, the Panel's interpretation has the effect of unlawfully limiting WTO Member's taxation freedom;
- In its interpretation and application of the 'dissimilarly' criterion, the Panel failed to adequately explain the rationale for its findings, in violation of Article 12.7 DSU;
- The Panel's interpretation and application of 'dissimilarity' criterion also constitutes a violation of Articles 3.2 and 19.2 DSU, as it both compromises the security and predictability of the multilateral trading system and adds to the rights and obligations of the Members under the GATT 1994.

Second, Chile considers that the Panel erred as a matter of law and legal interpretation in finding that the New Chilean Tax system would meet the 'so as to afford protection to domestic production' criterion of Article III:2, second sentence:

- The Panel erred in law in the interpretation and application of the concept of 'so as to afford protection to domestic production' as it is used in Article III:2, second sentence. Not only does the structure of the New Chilean Tax system not support a finding that it is 'so to afford protection to domestic production', but the anticipated effects of the law do not support such a finding;
  - The Panel erred in examining the efficiency and necessity of Chile's law in as related to its stated legislative objectives, in violation of the general principles of WTO dispute settlement and Articles 3.2 and 19.2 DSU.
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