

**INDIA – MEASURES AFFECTING THE IMPORTATION AND SALE  
OF WINES AND SPIRITS FROM THE EUROPEAN COMMUNITIES**

Request for the Establishment of a Panel by the European Communities

The following communication, dated 23 March 2007, from the delegation of the European Communities to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

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The European Communities hereby requests the establishment of a panel pursuant to Articles 4.7 and 6 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU") and Article XXIII of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994").

This request concerns measures that adversely affect exports of wines and spirits (codes 2204, 2205, 2206 and 2208 of the Harmonised System) from the European Communities to India. Specifically, this request concerns the following measures:

- Sections 2 and 3, and Schedule 1, of the 1975 Customs Tariff Act;
- Customs Notification No. 5/2004 of 8 January 2004 on Basic Customs Duty applied to spirits (code 2208 of the Harmonised System);
- Customs Notification No. 20/1997 of 1 March 1997 on Basic Customs Duty applied to wines (codes 2204, 2205 and 2206 of the Harmonised System);
- Customs Notification No. 32/2003 of 1 March 2003 on Additional Duty applied to wines and spirits (codes 2204, 2205, 2206 and 2208 of the Harmonised System); and
- Customs Notification No. 19/2006 of 1 March 2006 (on Extra Additional Duty applied to, *inter alia*, codes 2204, 2205, 2206 and 2208 of the Harmonised System).

For each of the measures referred to above, this request also covers any amendments, replacements, extensions, implementing measures or other related measures.

Under Section 2 and Schedule 1 of the 1975 Customs Tariff Act, India applies a Basic Customs Duty to imported wines and spirits (codes 2204, 2205, 2206 and 2208 of the Harmonised System). The Basic Customs Duty is applied pursuant to Customs Notification No. 20/1997 of 1 March 1997 to wines (codes 2204, 2205 and 2206) at a level of 100% *ad valorem* and pursuant to Customs Notification No. 5/2004 of 8 January 2004 to spirits (code 2208) at a level of 150% *ad valorem*. Under Section 3 and Schedule 1 of the 1975 Customs Tariff Act, India also applies an

Additional Duty and an Extra Additional Duty to imported wines and spirits. The Additional Duty is applied pursuant to Customs Notification No. 32/2003 of 1 March 2003 to wines at levels ranging from 20% to 75% (depending on the customs value of the wines imported), and to spirits at levels from 25% to 150% (depending on the customs value of the spirits imported). The Additional Duty is applied to the aggregate of customs value and Basic Customs Duty. The Extra Additional Duty is applied pursuant to Customs Notification No. 19/2006 of 1 March 2006 to wines and spirits at a level of 4% *ad valorem*. The Extra Additional Duty is applied to the aggregate of customs value, Basic Customs Duty and Additional Duty. The aggregate duty level resulting from the application of the Basic Customs Duty, the Additional Duty and the Extra Additional Duty ranges from 177.33% to 264% for imported wines and from 252.22% to 550% for imported spirits. Those aggregate duty levels exceed the bound level of 150% *ad valorem* for wines and spirits set forth in the WTO tariff schedule of India.

These measures nullify or impair the European Communities benefits in respect of India's obligations under the GATT 1994. In particular, India has acted inconsistently with Article II:1(a) and (b), read in conjunction with Article III:2 of the GATT 1994, by failing to accord to the commerce of another Member treatment no less favourable than that provided for in India's tariff schedule annexed to the WTO Agreement. India has failed to exempt products, which are the products of territories of another Member, on their importation into India's territory, from ordinary customs duties in excess of those set forth and provided in India's schedule.

Further details on these measures and on the manner in which they nullify or impair the European Communities benefits in respect of India's obligations under the GATT 1994 may be found in the document entitled "Report to the Trade Barriers Regulation Committee, Examination Procedure Concerning an Obstacle to Trade, within the Meaning of Council Regulation (EC) No 3286/94, Consisting of Trade Practices Maintained by India Affecting Trade in Wines and Spirits, Complaint Submitted by the European Spirits Organisation (CEPS) and the Comité Européen des Entreprises Vins (CEEV)" which is available at [http://ec.europa.eu/trade/issues/respectrules/tbr/cases/ind\\_alc.htm](http://ec.europa.eu/trade/issues/respectrules/tbr/cases/ind_alc.htm).

On 20 November 2006, the European Communities requested consultations with India with a view to reaching a mutually satisfactory solution of the matter. The request was circulated in document WT/DS352/1 dated 23 November 2006. The consultations were held on 20 and 21 December 2006 in New Delhi on the above-mentioned measures. They have not led to a satisfactory resolution of the matter.

Therefore, the European Communities respectfully requests that a panel be established, with standard terms of reference under Article 7 paragraph 1 of the DSU, to consider the above complaint with a view to finding that India's measures nullify or impair the EC's benefits in respect of India's obligations under Article II:1(a) and (b), read in conjunction with Article III:2, of the GATT 1994.

The European Communities asks that a special meeting of the Dispute Settlement Body be convened on Wednesday 11 April 2007 and that this request for the establishment of a panel be placed on the agenda of that meeting.

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