

**INDIA – CERTAIN TAXES AND OTHER MEASURES ON  
IMPORTED WINES AND SPIRITS**

Request for Consultations by the European Communities

Addendum

The following communication, dated 4 May 2009, from the delegation of the European Communities to the delegation of India and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

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The European Communities hereby requests supplementary consultations<sup>1</sup> with India pursuant to Article 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (DSU) and Article XXII:1 of the *General Agreement on Tariffs and Trade 1994* (GATT 1994) regarding discriminatory taxation applied on imported bottled wines and spirits by the Indian state of Andhra Pradesh. These measures adversely affect exports of wines and spirits (codes 22.04, 22.05, 22.06 and 22.08 of the Harmonised System) from the European Communities to India.

Discriminatory taxation applied by the Indian State of Andhra Pradesh

The European Communities understands that the State of Andhra Pradesh applies the "assessment fee" in a way that subjects imported wines and spirits to internal taxes in excess of domestic like products. *Government Orders G.O. Ms No 119 and G.O. Ms No 120* of 5 February 2009 set a new "assessment fee" on imported wines and spirits, respectively. The "assessment fee" appears to apply at rates which are inversely proportional to the assessable value of imported wines and spirits and are set in the range of 100% to 15% *ad valorem* for imported wines and 200% to 60% *ad valorem* for imported spirits, respectively. The "assessment fee" is not applied on domestic like products. Imported wines and spirits also appear to be subject to an "import fee" which does not apply to domestic like products.

The measures in question include but are not limited to:

- The Andhra Pradesh Excise Act, 1968 (Andhra Pradesh Act 17 of 1968), including sections 9, 21, 28;

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<sup>1</sup> This request supplements the request of consultations entailed in document WT/DS380/1, G/L/855, G/SCM/D79/1 dated 25 September 2008 as well as the supplementary request entailed in document WT/DS380/1/Add.1, G/L/855/Add.1, G/SCM/D79/1/Add.1 dated 17 December 2008 with regard to measures not mentioned in those requests.

- The Andhra Pradesh Indian Liquor and Foreign Liquor rules, 1970;
- The Andhra Pradesh Excise (Import, Export and transport of Indian Liquor and foreign Liquor-permits) Rules, 2005 (G.O. Ms No. 996, Revenue (Excise II) , 24 May 2005), as amended by Government Orders G.O. Ms 117 Revenue (Excise II) Department of 5 February 2009, Government Orders G.O. Ms 118 Revenue (Excise II) Department of 5 February 2009 G.O. Ms No 119 Revenue (Excise-II) Department of 5 February 2009 and Government Order G.O. Ms No 120 Revenue (Excise-II) Department of 5 February 2009;
- Government Order G.O. Ms No 184 Revenue (Excise –II) of 7 February 2005.

The European Communities considers that these measures are inconsistent with *Article III, paragraph 2* of the GATT 1994. In particular:

- The "assessment fee" is inconsistent with India's obligations under Article III:2 of the GATT 1994, because it subjects imported BIO bottled wines and spirits to internal taxes that are in excess of internal taxes applied on domestic like products;
- The "import fee" is inconsistent with India's obligations under Article III:2 of the GATT 1994, because it subjects imported BIO bottled wines and spirits to internal taxes that are in excess of internal taxes applied on domestic like products.

The European Communities considers that these measures also nullify or impair the benefits accruing to the European Communities under the GATT 1994.

For each of the measures referred to in this document, the request for consultations also covers any amendments, replacements, extensions, implementing measures and the related measures.

The European Communities reserves the right to address additional measures and claims under other provisions of the WTO Agreement regarding the above matters during the course of the consultations.

The European Communities looks forward to receiving in due course a reply from India to this request. The European Communities is ready to consider with India mutually convenient dates to hold consultations.

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