

CHILE - TAXES ON ALCOHOLIC BEVERAGES

Request for the Establishment of a Panel by the European Communities

The following communication, dated 9 March 1998, from the Permanent Delegation of the European Commission to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

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On 13 November 1997 the President of the Republic of Chile signed the Law No 19.534 modifying Article 42 of the Decree-Law no 825 of 1974 concerning the Additional Tax on Alcoholic Beverages. Law No 19.534 was published in Chile's Official Journal on 18 November, i.e. on the same day that the Dispute Settlement Body agreed to the request of the European Communities to establish a Panel with respect to the Additional Tax on Alcoholic Beverages (WT/DS87/5). The Law No 19.534 provides for the application of a transitional regime until 1 December 2000.

Like the measures which are subject of the Panel established on 18 November 1997, the modifications introduced by Law N° 19.534, including those to be applied on a transitional basis until 1 December 2000, are inconsistent with Chile's obligations under the GATT. In particular, the modifications introduced by Law N° 19.534 impose a lower tax rate on domestic pisco than on certain other like distilled spirits and liqueurs imported from the European Communities, thus infringing GATT Article III:2, first sentence. Those modifications also impose a lower tax rate on domestic pisco than on certain other directly competitive or substitutable distilled spirits and liqueurs imported from the European Communities so as to afford protection to Chile's domestic production, thereby violating GATT Article III:2, second sentence.

For the above reasons, on 15 December 1997, the European Communities requested consultations with Chile under Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (the "DSU") and Article XXII:1 of the GATT with respect to the modifications to the Additional Tax on Alcoholic Beverages introduced by Law N° 19.534 (WT/DS110/1).

The European Communities and Chile held consultations in Geneva on 28 January 1998 with a view to reach a mutually satisfactory solution. Unfortunately, the consultations failed to settle the dispute.

In view of that, the European Communities hereby request that a Panel be established at the next meeting of the DSB pursuant to Article 6 of the DSU and Article XXIII of GATT. The European Communities further request that the Panel be established with standard terms of reference as set out in Article 7 of the DSU.

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