

**PERU – TAX TREATMENT ON CERTAIN IMPORTED PRODUCTS**

Request for Consultations by Chile

The following communication, dated 22 April 2002, from the Permanent Mission of Chile to the Permanent Mission of Peru and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

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I have been instructed by my Government to request consultations with the Republic of Peru under Article XXII of the GATT 1994 and Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes in connection with the tax treatment of imports of fresh fruit, vegetables, fish, milk, tea and other natural products in Peru.

Law 27.614 amending the single codified text of the Law on the General Sales Tax and Selective Consumption Tax (TUO), approved by Supreme Decree No. 055-99-EF, was published in the Official Journal of Peru, *El Peruano*, on 29 December 2001. Article 5 of the TUO used to exempt from the General Sales Tax (IGV) sales within the country and imports of a list of products – contained in Appendix I of the TUO – which included fish, milk, fruit and vegetables, tea, cereals for sowing and other products. Pursuant to Law 27.614 the TUO was amended with the result that the goods listed in the above-mentioned Appendix I will be exempted from the IGV only in the case of sales within the country. Accordingly, imports of these goods became subject to the IGV, with the exception of a small group of products – cereals for sowing, books and some others – imports (and domestic sales) are still exempt from the IGV.

In other words, since 29 December 2001 imports of a large number of products are subject to the IGV at a rate of 18 per cent, whereas sales within Peru of the same products are exempt from the IGV. Chile considers that this is a violation of the national treatment commitments entered into by Peru both bilaterally – under Article 19 of the Economic Complementarity Agreement between Chile and Peru (ACE 38) – and in the WTO, specifically Article III of the GATT 1994. This affects Chilean exports of these products, in particular, but not exclusively, apples, table grapes and peaches, harming their competitiveness on the Peruvian market.

My Government therefore considers that Law 27.614, by establishing that the exemption from the IGV provided for in the TUO of the Law on the General Sales Tax and Selective Consumption Tax (Supreme Decree No. 055-99-EF) applies only to sales within Peru but not to imports, is inconsistent with Article III of the General Agreement on Tariffs and Trade 1994, because it taxes imports of certain goods at a rate of 18 per cent, but not domestic sales.

Considering that the goods affected by the measure at issue are natural and hence perishable products, Chile invokes the provisions relating to cases of urgency in Article 4:8 of the Understanding on Rules and Procedures Governing the Settlement of Disputes. It will therefore invoke its rights relating to time-limits provided for in that paragraph as well as in paragraph 9 of the same Article 4.

Lastly, Chile reserves the right to raise other factual and legal issues in the consultations.

I look forward to your reply to this request in order to set a mutually convenient date for holding the consultations.

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