

CHILE - TAXES ON ALCOHOLIC BEVERAGES

Request for Consultations by the European Communities

The following communication, dated 15 December 1997, from the Permanent Delegation of the European Commission to the Permanent Mission of Chile and to the Dispute Settlement Body, is circulated in accordance with Article 4.4. of the DSU.

My authorities have instructed me to request consultations with Chile under Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes and Article XXII:1 of the General Agreement on Tariffs and Trade 1994 (the "GATT") with regard to the Additional Tax on Alcoholic Beverages ("Impuesto Adicional a las Bebidas Alcoholicas"), as recently modified by Law No. 19.534.

On 13 November 1997 the President of the Republic of Chile signed the new Law No. 19.534 modifying Article 42 of the Decree-Law No. 824 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 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). Law No. 19.534 provides for the application of a transitional regime until 1 December 2000.

Like the measures which are the subject of the panel established on 18 November 1997, the modifications introduced by Law No. 19.534, including those to be applied on a transitional basis until 1 December 2000, appear to be inconsistent with Chile's obligations under the GATT. In particular, the modifications introduced by Law No. 19.534 appear to impose a lower tax rate on domestic products than on certain other like distilled spirits and liqueurs, imported from the European Community, thereby infringing GATT Article III:2, first sentence. Those modifications also appear to impose a lower tax rate on domestic products than on certain other directly competitive or substitutable distilled spirits and liqueurs imported from the European Community, so as to afford protection to the domestic production, thus violating GATT Article III:2, second sentence.

I look forward to receiving your reply to this request and to setting a mutually convenient date for the consultations.