

# WORLD TRADE ORGANIZATION

G/STR/N/3/URY

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Working Party on  
State Trading Enterprises

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## STATE TRADING

### Updating Notification Pursuant to Article XVII:4(a) of the GATT and Paragraph 1 of the Understanding on the Interpretation of Article XVII

## URUGUAY

The following communication, dated 29 December 1997, has been received from the Permanent Mission of Uruguay.

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The Permanent Delegation of Uruguay to the World Trade Organization presents its compliments to the WTO Secretariat (Rules Division), and with reference to the updating notification to be submitted pursuant to Article XVII:4(a) of the GATT 1994 and paragraph 1 of the Understanding on the Interpretation of Article XVII and in conformity with the decisions contained in document G/STR/N/3, hereby confirms the promulgation of Law No. 16,753 of 13 June 1996 and its Regulatory Decree No. 298/97 of 20 August 1997, of which copies are attached. The central provisions of the mentioned Law are contained in Article 1, which revokes the monopoly granted to the National Administration for Fuels, Alcohol and Portland Cement (ANCAP) on alcohol and alcoholic beverages, and in Article 14, which authorizes the said enterprise to form temporary or permanent associations with public or private enterprises.

With this communication, the delegation of Uruguay completes its updating notifications for 1996 and 1997.

LAW NO. 16,753

BREAKING UP OF THE MONOPOLY ON ALCOHOL AND BEVERAGES

Established on Behalf of the National Administration of  
Fuels, Alcohol and Portland Cement (ANCAP)  
under Law 8,764

The Senate and the House of Representatives of the Eastern Republic of Uruguay, meeting on the occasion of their General Assembly,

HEREBY DECREE:

Article 1

The monopoly on alcohol and alcoholic beverages established on behalf of the National Administration for Fuels, Alcohol and Portland Cement (ANCAP) under Law No. 8,764 of 15 October 1931 is revoked. The National Administration of Fuels, Alcohol and Portland Cement shall continue to manufacture, market, import and export alcohol and distilled alcoholic beverages in competition with the private sector.

Article 2

The National Administration for Fuels, Alcohol and Portland Cement (ANCAP) shall be responsible for such controls and penalties as are established by this Law with the exception of those entrusted to the Executive and to the National Institute of Wine Production (*Instituto Nacional de Vitivinicultura* - INAVI).

Article 3

The Directorate-General of Taxation shall monitor the marketing of alcohol and alcoholic beverages within the limits of its competence.

Article 4

Only ethyl alcohol obtained by distilling and rectifying wine must or concentrates of any carbohydrate that has undergone alcoholic fermentation, together with natural spirits and the product of the rectification thereof, may be produced for human consumption.

Manufacturers, traders, holders, depositaries and consignees of ethyl or methyl alcohol shall declare the stocks and chemical composition thereof to the National Administration for Fuels, Alcohol and Portland Cement (ANCAP) within the time-limit provided in the Regulations.

Article 5

All persons involved in distilling, manufacturing, handling, fractioning or marketing alcohol and alcoholic beverages as defined in this Law, as well as all depositaries, holders or consignees thereof, shall enter their names in a register established for the purpose by the National Administration for Fuels, Alcohol and Portland Cement (ANCAP).

#### Article 6

The system of identification of alcoholic beverages established under Decree Law No. 10,316 of 19 January 1943 is abolished.

#### Article 7

All packaging of alcoholic beverages, whether domestically produced or imported, must display on the main label the type or nature of the product, its alcohol content and the identity of the manufacturer or importer, without prejudice to such other identification requirements as may already exist.

The time-limit for complying with the above requirement shall be set forth in the Regulations. Any product which infringes these provisions may be confiscated and the offender fined up to three times the officially established value for the assessment of the Specific Internal Tax (IMESI) per litre or fraction of the product in question.

#### Article 8

The marketing of alcoholic beverages which differ by more than 1° Gay Lusac from the strength mentioned on the packaging label shall be subject to a fine equivalent to five times the official value mentioned in Article 7 per litre or fraction of the product in question, which may be confiscated. A double penalty shall be imposed, in general, when the composition does not comply with the standards established by the UNIT (Uruguayan Technical Standards Institute) for each specific product type, and the product may be confiscated.

In establishing regulations in connection with this provision, the Executive shall publish the applicable UNIT standards for alcohol and alcoholic beverages.

#### Article 9

The first paragraph of Article 8 shall also apply in respect of the marketing of drinking alcohol or denatured spirits with an alcohol content less than the amount provided for in the standards regulating their production.

For cases of regeneration of denatured alcohol, use for other unauthorized purposes or possession thereof in places that communicate with premises containing stills, double the fines established in the first paragraph of Article 8 shall be applied to the offender, whose activities may be suspended where the National Administration for Fuels, Alcohol and Portland Cement (ANCAP) deems appropriate.

The fine shall be calculated on the basis of the marketing price of the alcohol at the place where it is located, or the purchase price when it is not intended for sale in its original state.

#### Article 10

The Regulations shall determine the requirements for the transport of alcohol.

Confiscated products that cannot be marketed as well as diluted or adulterated products shall be disposed of by pouring them away.

Article 11

The special authorizations to manufacture or import stills set forth in Decree Law No. 10,316 of 19 January 1943 and the regulatory decrees, as well as those concerning the installation of distilleries for manufacturing liquor distilled from grape refuse (*orujo, borra*) produced either on the spot or elsewhere are rescinded.

The said authorizations shall lose their effect 180 days following the publication of this Law.

The prices of beverages distilled from grape refuse (*orujo, borra, flema*) shall be determined by the market.

The production, transport and storage of *orujo* and *borra*, and the sale and use of drinking alcohol to fortify wine shall be controlled by the National Institute of Wine Production (INAVI) in accordance with the Regulations.

Article 12

The National Administration of Fuels, Alcohol and Portland Cement (ANCAP) shall fix the selling prices of all products that it develops and markets on a competitive basis.

Article 13

The penalties set forth in Articles 7, 8 and 9 above shall apply, where appropriate, without prejudice to the possibility of temporary or definitive closure and criminal liability of the offenders.

Article 14

In order to fulfil the non-monopoly requirements of Article 1 of Law No. 8,764 of 15 October 1931 as well as those contained in this Law, the National Administration for Fuels, Alcohol and Portland Cement (ANCAP) may form temporary or permanent associations, with public or private enterprises, or conclude any form of contract with them for industrial or commercial purposes.

Article 15

This Law shall enter into force six months after its promulgation.

Sala de Sesiones, House of Representatives, Montevideo, 15 May 1996.

Jorge Machiñena  
President

Martín García Nin  
Secretary

Ministry of Industry, Energy and Mining  
Ministry of the Economy and Finance  
Ministry of Transport and Public Works  
Ministry of Livestock, Agriculture and Fisheries

Montevideo, 13 June 1996

This Law shall be communicated, published and entered in the National Registry of Laws and Decrees.

**SANGUINETTI  
FEDERICO SLINGER  
LUIS MOSCA  
LUCIO CACERES  
ROBERTO RODRIGUEZ PIOLI**

**MINISTRY OF INDUSTRY, ENERGY AND MINING**

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Decree 298/97 authorizing the National Administration for Fuels, Alcohol and Portland Cement (ANCAP) to form temporary or permanent associations with enterprises and to conclude contracts with them for commercial or industrial purposes in accordance with Law 16,753.

Ministry of Industry, Energy and Mining

Montevideo, 20 August 1997

HAVING REGARD TO the provision of Article 14 of Law No. 16.753 of 13 June 1996 authorizing the National Administration for Fuels, Alcohol and Portland Cement (ANCAP) to form associations with other public or private persons and to conclude contracts for industrial and commercial purposes with a view to fulfilling its non-monopoly commitments,

WHEREAS: (i) from the entry into force of the above-mentioned Law, the National Administration for Fuels, Alcohol and Portland Cement (ANCAP) may form temporary or permanent associations with enterprises and conclude contracts for industrial or commercial purposes as it deems fit,

(ii) under the legislation in force, the said entity must, in its tender selection procedures, in all cases respect the legal principles of flexibility, avoiding excessive formality and ensuring authenticity, presumption of truth until proof to the contrary, publicity, equality among bidders and competition in competitive calls for and selection of tenders,

CONSIDERING: (i) that in view of their non-monopolistic nature, the temporary or permanent associations and contracts concluded for industrial and commercial purposes shall in no case aim to reduce or eliminate effective competition in the market concerned,

(ii) that the National Administration for Fuels, Alcohol and Portland Cement (ANCAP) must at all times ensure that its investments and expenditures in the framework of associations and commercial or industrial contracts are financed with resources deriving from the non-monopolistic activities for which the association was created or the contract concluded,

(iii) that the entity must ensure the participation of its representatives among the authorities of such associations as are created,

BEARING IN MIND the provisions of Article 14 of Law No. 6,753 of 13 June 1996 and Decree No. 194/97 of 10 June 1997 (*Texto Ordenado de Contabilidad y Administración Financiera - TOCAF 96*),

THE PRESIDENT OF THE REPUBLIC

HEREBY DECREES:

Article 1

When the National Administration for Fuels, Alcohol and Portland Cement (ANCAP), in exercise of its rights under Article 14 of Law No. 16.753 of 13 June 1996, decides to form temporary or permanent associations with public or private domestic or foreign enterprises, or to conclude contracts with such enterprises for industrial or commercial purposes, it shall in all cases comply with the provisions in force with respect to State procurement, in particular Decree No. 194/97 of 10 June 1997.

Article 2

Tender selection procedures must in all cases respect the principles of flexibility, avoiding excessive formality and ensuring authenticity, presumption of truth until proof to the contrary, publicity, equality among bidders and competition in competitive calls for and selection of tenders. The procedures may provide for a preliminary stage in which ANCAP is given the opportunity to study the conditions under which the economic agents are prepared to form associations or conclude contracts with the entity. The decision shall be based on an objective assessment of the benefits for ANCAP of the association or contract in question and of the extent to which the objectives set by ANCAP for the proposed activity can be met.

The National Administration for Fuels, Alcohol and Portland Cement (ANCAP) may apply through the Ministry of Industry, Energy and Mining as regards special procurement systems and procedures in accordance with Article 34 of the TOCAF 96.

Article 3

In deciding to form temporary or permanent associations with public or private domestic or foreign enterprises or to conclude contracts with them for industrial or commercial purposes, the National Administration for Fuels, Alcohol and Portland Cement (ANCAP) shall guarantee that such step will in no case aim to reduce or eliminate effective competition in the market concerned.

Article 4

The National Administration for Fuels, Alcohol and Portland Cement (ANCAP) shall ensure at all times that investments and expenditures made in the context of an association or a commercial or industrial contract are financed with resources deriving from the non-monopolistic activities for which such association was formed or such contract concluded.

Article 5

The present Decree shall be communicated, published, etc.

SANGUINETTI JULIO HERRERA

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