

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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## CHILE - TAXES ON DISTILLED SPIRITS

### Request for Consultations under Article XXII:1 by the European Community

The following communication, dated 25 November 1994, has been sent by the Permanent Delegation of the Commission of the European Communities to the Permanent Mission of Chile in Geneva and is circulated in accordance with paragraph C.3 of the CONTRACTING PARTIES' 1989 Decision on Improvements to the GATT Dispute Settlement Rules and Procedures (BISD 36S/62).

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On behalf of the European Community, I hereby request consultations with the Government of Chile under Article XXII:1 of the General Agreement on Tariffs and Trade with respect to the taxation of distilled spirits in your country, especially the "impuesto adicional" of 70% imposed on imported whisky, and that of 30% on imported liquors, compared with the rate of 25% for pisco. The European Community considers that this situation constitutes a breach of Chile's obligations under the General Agreement, and specifically of Article III thereof, which does not permit the application of discriminatory taxation, in particular not so as to afford protection to a domestic industry.

Whisky, as well as other (imported) spirits, and pisco are "like", or at least directly competitive or substitutable products. The application of considerably lower internal taxes by Chile on pisco than on other "like" or directly competitive or substitutable products, had trade-distorting effects which amount to, *inter alia* affording protection to domestic production of pisco contrary to Article III:1 and 2, second sentence. This had been confirmed by a number of Panel reports, including the Report on "Japan - Customs Duties, Taxes and Labelling Practices on Imported Wines and Alcoholic Beverages" (BISD 34S/83).

As you know, the European Community has already held consultations in 1989 regarding the issue of discriminatory spirits taxation by Chile. However, in the spirit of Article XXII:1 of the General Agreement, the European Community would like to take another attempt at exploring with your government, whether a mutually satisfactory solution can be found. In particular, the EC would like to have more information about how the taxation at issue (and specifically the "impuesto adicional") is applied to domestic and foreign products.

The European Community would like to have the consultations with you as soon as possible. We would appreciate it greatly if they could be held in Geneva during either the week of 12 or of 19 December. However, the exact date of the consultations can of course be set in mutual agreement.

Finally, I would like to stress that this request is without prejudice to the European Community's rights under the World Trade Organisation.