



January 13, 2020

Joseph L. Barloon
General Counsel
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, DC 20508

Submitted electronically via <http://www.regulations.gov>

Re: Review of Action: Enforcement of U.S. WTO Rights in Large Civil Aircraft Dispute (USTR–2019–0003)

Dear Mr. Barloon:

On behalf of the Distilled Spirits Council of the United States, National Restaurant Association, Kentucky Distiller’s Association, Wine Institute, American Craft Spirits Association, WineAmerica, Wine & Spirits Wholesalers of America, the National Association of Beverage Importers, American Beverage Licensees, Wine and Spirits Shippers Association, and the American Distilled Spirits Association, we welcome this opportunity (84 Fed. Reg. 67992 (December 12, 2019)) to expand upon our previous comments submitted on May 28, 2019 and August 5, 2019 in connection with this dispute. Since tariffs were imposed in October 2019, there is clear evidence that the U.S. beverage alcohol industry has been negatively impacted as a direct result of these tariffs. Thus, we reiterate our previous requests that the United States and the European Union (EU) should negotiate a settlement to secure the removal of the EU’s 25 percent retaliatory tariff on American Whiskey and the U.S. tariffs on EU beverage alcohol products, and agree not to impose any additional tariffs on beverage alcohol.

Introduction

As noted in our previous submissions, our associations have long supported the United States’ efforts to open overseas markets and its commitment to open the U.S. market to imported products. Because of these commitments concerning beverage alcohol made by both the U.S. and EU governments, and in order to satisfy consumer demands, many companies within the industries have become very interconnected, with companies owning both U.S. and EU spirits, wine and beer brands. As a result, tariffs imposed on EU beverage alcohol products harm U.S. and EU companies, and likewise, tariffs on U.S. beverage alcohol products harm EU and U.S. companies.

On October 18, 2019, the U.S. imposed tariffs on certain EU beverage alcohol imports in connection with this case. Specifically, the U.S. beverage alcohol industry now faces a 25 percent tariff on “single malt Scotch Whisky;” “single malt Irish Whiskey” from Northern Ireland, Liqueurs/Cordials from Germany, Ireland, Italy, Spain and UK, and certain wines from France, Germany, Spain and UK. Anecdotal evidence is starting to emerge to suggest that the 25 percent tariff on these specific EU beverage alcohol products is already causing damage to U.S. businesses of all sizes and resulting in U.S. job losses. It will take several more months for the full unintended negative impacts of the tariffs to become apparent as existing stock in the U.S. market imported before the imposition of tariffs is depleted.

Moreover, retaliatory tariffs by key trading partners on American wine and spirits imports are already having a significant negative impact on the industry. For example, American wine exports to China were down 48 percent through the first three quarters of 2019. Similarly, American Whiskey exports to the EU declined 29 percent between January 2019 through November 2019 as compared to January 2018 through November 2018¹. The EU’s 25 percent retaliatory tariff on American Whiskey is scheduled to increase to 50 percent in 2021. In addition, American spirits exports to Turkey declined 42 percent in that same between January and November 2019 compared to the same period in 2018. American spirits exports to China declined 8 percent in that time, after 45 percent growth in 2018 and 160 percent growth since 2010.

As detailed below, continuing, increasing and/or expanding tariffs on EU beverage alcohol products will only further escalate the U.S./EU tensions, causing additional harm on both the U.S. and EU industries.

I. Preliminary Impact of the 25 Percent Tariff

As noted in our two previous submissions, the beverage alcohol sector creates good paying jobs in every state, from the production, import and wholesale tiers all the way through to the retail tier. A tariff is a tax that often must be passed along to consumers in the form of higher retail prices.

Below is an illustrative, non-exhaustive overview of the negative impact the 25 percent tariff imposed on certain EU beverage alcohol products is already having on U.S. businesses and jobs based on the results of an informal survey of our members. The examples are provided anonymously to protect business confidential information.² In the brief period to survey members over the holidays, it has been reported these tariffs have already resulted in the loss or cancelation of 39 jobs.

- U.S. spirits company which imports various EU spirits and employs approximately 200 people in the U.S. has already cut short-term and mid-term investments in the U.S. To

¹ Latest data available from the USITC Dataweb

² The Coalition urged impacted companies to share business confidential information concerning the negative impact of the tariffs directly with USTR.

date, the company has suspended all open roles which equates to 10 percent of its workforce, reduced its overhead by cutting approximately 10 percent of planned marketing, and reallocated shipments of certain brands outside of the U.S. If the 25 percent tariff remains in effect or is increased to 100 percent, they will further reduce investments in the U.S. by an additional 10 percent and may be forced to remove certain brands from the U.S. market all together. The company recently invested in an American Whiskey brand and planned to export to the EU but cannot do so as a result of the EU's 25 percent retaliatory tariff on American Whiskey.

- A U.S. spirits company has 22 U.S. employees who are directly employed to market, sell, or distribute EU spirits impacted by the 25 percent retaliatory tariff has already laid off two employees and canceled five openings. They will be forced to lay off five more employees and cancel 10 new hires if the 25 percent tariff remains in effect. If the tariff is increased to 100 percent, they anticipate they will lay off 10 more employees and cancel 15 new hires.
- A U.S. wine importer with two U.S. employees who are directly employed to market, sell, or distribute EU wines impacted by the 25 percent retaliatory tariff has already increased prices and canceled two hires. If the 25 percent tariff remains in effect through 2020, they estimate they will have to cancel two additional hires. If the tariff is increased to 100 percent, they will be forced out of business.
- A U.S. spirits company with 13 employees who are directly employed to market, sell, or distribute EU spirits impacted by the 25 percent retaliatory tariff will have to increase prices if the tariff remains in effect. To date, it has not increased the price of the product, laid off staff, or canceled job openings. However, if the tariff is raised to 100, they will be forced to significantly increase the cost of the impacted products and lay off four employees.
- A U.S. wine and spirits importer with 33 U.S. employees who are directly employed to market, sell, or distribute EU wines and spirits impacted by the 25 percent retaliatory tariff has already canceled two new hires. If the 25 percent tariff remains in effect, they will be forced to cancel another hire. If the tariff is increased to 100 percent, they will be forced to lay off at least two employees.
- A U.S. wine importer with 65 U.S. employees who are directly employed to market, sell, or distribute EU wines impacted by the 25 percent retaliatory tariff anticipates that they will lay off 15 employees and cancel four hires if the 25 percent tariff remains in effect. If the tariff is increased to 100 percent, they be forced to lay off 25 employees and cancel five hires.
- A U.S. wine importer with three U.S. employees who are directly employed to market, sell, or distribute EU wines impacted by the 25 percent retaliatory tariff will have to lay off one person and increase costs if the tariff 25 percent tariff remains in effect through

2020. They have already cancelled hiring one new employee. If the tariff is increased to 100 percent, they will be forced to lay off their remaining staff and go out of business.

- A U.S. spirits company that employees approximately 400 people in the U.S. projects that it will lay off staff and increase prices if the 25 percent tariff remains in effect through 2020. If the tariff is increased to 100 percent, they anticipate that they will be forced to make significant cuts to their U.S. workforce.
- A U.S. wine importer with five U.S. employees who are directly employed to market, sell, or distribute EU wines impacted by the 25 percent retaliatory tariff has already been forced to cancel two new hires. If the tariff 25 percent tariff remains in effect, it will have to cancel two additional hires. If the tariff is increased to 100 percent, they anticipate that they will be forced to lay off four employees and cancel two more hires.
- A U.S. wine importer with 26 U.S. employees who are directly employed to market, sell, or distribute EU wines impacted by the 25 percent retaliatory tariff has already been forced to cancel two new hires that were scheduled to begin on December 10. If the tariff is increased to 100 percent, they will be forced to lay off 18 employees and cancel 8-18 new hires.

II. Tariffs on EU Beverage Alcohol Products Will Cause a Loss of U.S. Jobs and Investments

As noted above, anecdotal evidence demonstrates that the negative unintended consequences of tariffs on EU wines and spirits are already being felt across the U.S. As previously reported, an analysis by the Distilled Spirits Council shows that if tariffs on the spirits and wine products imported from the EU included on the preliminary and supplemental lists remain in effect or are increased, it could lead to a loss of approximately 11,200 to 78,600 U.S. jobs. This is in addition to the estimated loss of approximately 6,000 to 17,000 if tariffs between 25 percent and 100 percent are imposed on sparkling wine from France in the Section 301 Investigation into France's Digital Services Tax.³

Below is an analysis demonstrating the significant harm and damage *ad valorem* tariffs of 10 percent, 25 percent, 50 percent, and 100 percent on the specified EU wine and distilled spirits products could have on U.S. jobs.

A. 10 Percent Tariff Would Result in The Loss of Over 11,200 U.S. Jobs

The imposition of a 10 percent tariff would increase the retail price of Cognac by nearly 6.3 percent and increase the price of Scotch Whisky and Irish Whiskey by approximately 5.42 percent. Cordial prices would go up by almost 5.5 percent and imported wine prices by 7.2

³ Our coalition also strongly opposes the imposition of tariffs on sparkling wine from France in connection with the Section 301 Investigation in France's Digital Services Tax (Docket No. USTR-2019-0009). See comments on January 6, 2020.

percent. As consumers curb their buying in response to higher prices, total retail sales of the products are projected to fall by over \$1.4 billion. The decline in sales **would result in estimated lost jobs for over 11,200 workers**⁴ (see Table 3).

B. 25 Percent Tariff Would Result in the Loss of Nearly 26,200 U.S. Jobs

The imposition of a 25 percent tariff would increase the retail price of Cognac by an estimated 15.7 percent, the price of the impacted cordials by 13.7 percent, the price of Scotch Whisky and Irish Whiskey by 13.5 percent, and the impacted wines by 18 percent. As a result, retail sales would be reduced by nearly \$3.3 billion and around **26,200 workers would lose their jobs** (see Table 4).

C. 50 percent Tariff would result in the Loss of Nearly 47,100 U.S. Jobs

The imposition of a 50 percent *ad valorem* tariff on EU brandy, liqueurs and cordials, Scotch Whisky and Irish Whiskey and wine would increase the retail price of Cognac by an estimated 31 percent, the price of the impacted liqueurs and cordials by nearly 27 percent, Scotch Whisky and Irish Whiskey by 27 percent and the impacted wines by 36 percent. As a result, retail sales would be reduced by nearly \$10 billion and around **47,100 workers would lose their jobs** (see Table 8).

D. 100 Percent Tariff Would Result in the Loss of Nearly 78,600 U.S. Jobs

The imposition of a 100 percent *ad valorem* tariff on EU brandy, liqueurs and cordials, Scotch Whisky and Irish Whiskey and wine would increase the retail price of Cognac by an estimated 63 percent, the price of the impacted liqueurs and cordials by nearly 55 percent, Scotch Whisky and Irish Whiskey by 54 percent and the impacted wines by 72 percent. As a result, retail sales would be reduced by nearly \$10 billion and around **78,600 workers would lose their jobs** (see Table 5).

Conclusion

In sum, the imposition of tariffs on EU beverage alcohol products has already led to the loss of U.S. jobs. We anticipate that these losses will grow the longer the tariffs are in effect, if the rates are increased, or if additional beverage alcohol products are subject to new tariffs. In addition to the unintended negative impact on U.S. jobs highlighted above, we believe that continuing to impose tariffs on EU beverage alcohol products will escalate the dispute further and: 1) result in the EU imposing tariffs on additional U.S. beverage alcohol products, further

⁴ Analysis by the Distilled Spirits Council Office of Economic and Strategic Analysis. To calculate lost jobs, we first estimated the impact of tariffs on retail prices by each category. We then used the price elasticity of demand to estimate the reduction in consumption as a result of price increases. We then estimated the decline in employment stemming from the lost consumption in the effected industries; namely, importers, wholesalers and retailers. After calculating the direct impact of job losses, we used direct-effect employment multipliers to estimate the total number of job losses.

reducing U.S. wine and spirits exports to the EU, the United States' most important export market; and 2) result in decreased tax revenue, particularly for State and Local governments.

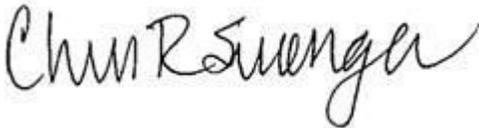
Accordingly, we strongly urge the U.S. and EU to negotiate an agreement securing the removal of tariffs on EU beverage alcohol products, and the EU's 25 percent retaliatory tariff on American Whiskey. Our EU counterparts share our strong opposition to the application of any tariffs on distilled spirits and wine and are urging their governments and the Commission to secure an agreement to eliminate these tariffs as soon as possible.

Thank you for this opportunity to expand and reiterate upon our previous submission. Please do not hesitate to contact us should you need any additional information.

Sincerely,

Chris R. Swonger
President & CEO
Distilled Spirits Council of the U.S.

Michelle L. Korsmo
President & CEO
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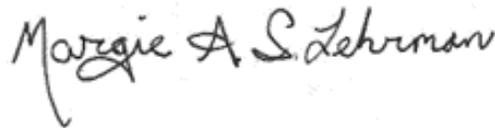
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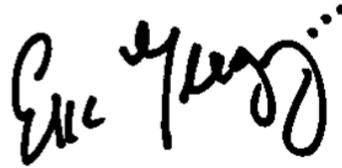
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Table 1. EU Distilled Spirits included on the Preliminary and Supplemental Lists

Product	Value	Proof Liters	Est 9_liter Cases	Est. Average Case Price
WHISKEY	\$1,849,385,895	98,859,161	13,730,439	\$134.69
2208.30.30	\$1,834,863,183	97,390,006	13,526,390	\$135.65
2208.30.60	\$14,522,712	1,469,155	204,049	\$71.17
BRANDY	\$1,379,560,185	49,624,849	6,892,340	\$200.16
2208.20.2000	\$481,276	32,821	4,558	\$105.58
2208.20.3000	\$609,921	217,264	30,176	\$20.21
2208.20.4000	\$1,371,710,333	47,734,702	6,629,820	\$206.90
2208.20.5000	\$1,036,501	737,716	102,461	\$10.12
2208.20.6000	\$5,722,154	902,346	125,326	\$45.66
CORDIALS	\$792,023,062	37,233,343	8,274,076	\$95.72
2208.70.0030	\$789,405,243	36,627,345	8,139,410	\$96.99
2208.70.0060	\$2,617,819	605,998	134,666	\$19.44
Note: In converting to cases, abv content is assumed to be 40% for whisky and brandy, and 25% for cordials				
Sources: Distilled Spirits Council Office of Economic and Strategic Analysis and U.S. International Trade Commission				

Table 2. EU Wines included on the Preliminary and Supplemental Lists

Product	Value	Proof Liters	Est. 9_liter Cases	Est. Average Case Price
WINE	\$4,678,969,428	619,546,054	68,838,450	\$67.97
2204.10.0030	\$286,053	228,503	25,389	\$11.27
2204.10.0065	\$14,502,412	1,405,131	156,126	\$92.89
2204.10.0075	\$1,244,720,514	129,732,904	14,414,767	\$86.35
2204.21.2000	\$2,231,603	660,805	73,423	\$30.39
2204.21.3000	\$510,695	21,853	2,428	\$210.33
2204.21.5005	\$361,833	547,137	60,793	\$5.95
2204.21.5015	\$327,300	402,692	44,744	\$7.32
2204.21.5025	\$72,450	94,266	10,474	\$6.92
2204.21.5028	\$207,806	25,833	2,870	\$72.40
2204.21.5035	\$12,799,530	2,127,122	236,347	\$54.16
2204.21.5040	\$1,497,591,026	190,099,106	21,122,123	\$70.90
2204.21.5050	\$11,066,401	2,352,665	261,407	\$42.33
2204.21.5055	\$1,148,152,025	193,944,506	21,549,390	\$53.28
2204.21.5060	\$339,146,328	52,044,667	5,782,741	\$58.65
2204.21.6000	\$4,457,339	1,097,587	121,954	\$36.55
2204.21.8030	\$9,034,420	1,242,270	138,030	\$65.45
2204.21.8060	\$344,715,331	23,096,370	2,566,263	\$134.33
2204.22.2005	\$68,594	80,078	8,898	\$7.71
2204.22.2015	\$79,866	94,148	10,461	\$7.63
2204.22.2025	\$80,901	90,901	10,100	\$8.01
2204.22.2030	\$10,330,525	3,612,594	401,399	\$25.74
2204.22.2045	\$2,877,915	1,152,516	128,057	\$22.47
2204.22.2060	\$2,059,874	569,464	63,274	\$32.55
2204.22.4000	\$1,375,506	279,483	31,054	\$44.29
2204.22.6000	\$4,209,655	993,717	110,413	\$38.13
2204.22.8000	\$567,289	8,482	942	\$601.93
2204.29.6100	\$25,754,995	12,868,414	1,429,824	\$18.01
2204.29.8100	\$1,289,932	609,536	67,726	\$19.05
2204.30.0000	\$91,310	63,304	7,034	\$12.98

Sources: Distilled Spirits Council Office of Economic and Strategic Analysis and U.S. International Trade Commission

	Whiskey	Cognac	Cordials	Wine	Total
Old Average Price	\$32.87	\$41.95	\$23.04	\$12.45	
New Average Price	\$34.65	\$44.59	\$24.30	\$13.35	
Price change (\$)	\$1.78	\$2.64	\$1.26	\$0.90	
Price change (%)	5.42%	6.29%	5.49%	7.21%	
Volume change (gallons)	-1,332,291	-771,489	-812,605	-6,150,538	
9L Case Gain/(Loss)	-560,363	-324,489	-341,783	-2,586,925	
Volume change (%)	-4.08%	-4.71%	-4.13%	-3.76%	
Jobs Gained/(Lost)	-4,626	-1,779	-1,863	-2,986	-11,254
In Millions					
Off-premise Sales	-\$175	-\$129	-\$75	-\$316	-\$695
On-premise Sales	-\$245	-\$181	-\$105	-\$212	-\$744
Retail Sales	-\$420	-\$311	-\$180	-\$528	-\$1,439
Source: Distilled Spirits Council Office of Economic and Strategic Analysis					

Table 4					
Impact of 25% tariff					
	Whiskey	Cognac	Cordials	Wine	Total
Old Average Price	\$32.87	\$41.95	\$23.04	\$12.45	
New Average Price	\$37.32	\$48.55	\$26.20	\$14.69	
Price change (\$)	\$4.45	\$6.60	\$3.16	\$2.24	
Price change (%)	13.54%	15.74%	13.71%	18.03%	
Volume change (gallons)	-3,115,956	-1,786,784	-1,899,038	-14,262,961	
9L Case Gain/(Loss)	-1,310,576	-751,524	-798,738	-5,999,021	
Volume change (%)	-9.55%	-10.90%	-9.65%	-8.71%	
Jobs Gained/(Lost)	-10,820	-4,120	-4,353	-6,925	-26,218
In Millions					
Off-premise Sales	-\$409	-\$300	-\$175	-\$732	-\$1,616
On-premise Sales	-\$574	-\$420	-\$245	-\$492	-\$1,731
Retail Sales	-\$983	-\$720	-\$420	-\$1,224	-\$3,347
Source: Distilled Spirits Council Office of Economic and Strategic Analysis					

Table 5					
Impact of 100% tariff					
	Whiskey	Cognac	Cordials	Wine	Total
Old Average Price	\$32.87	\$41.95	\$23.04	\$12.45	
New Average Price	\$50.67	\$68.36	\$35.68	\$21.43	
Price change (\$)	\$17.80	\$26.41	\$12.64	\$8.98	
Price change (%)	54.16%	62.94%	54.85%	72.13%	
Volume change (gallons)	-9,453,957	-5,244,329	-5,746,269	-42,259,412	
9L Case Gain/(Loss)	-3,976,347	-2,205,772	-2,416,889	-17,774,367	
Volume change (%)	-28.96%	-32.00%	-29.21%	-25.82%	
Jobs Gained/(Lost)	-32,828	-12,093	-13,171	-20,519	-78,611
In Millions					
Off-premise Sales	-\$1,242	-\$879	-\$529	-\$2,170	-\$4,820
On-premise Sales	-\$1,741	-\$1,232	-\$742	-\$1,458	-\$5,173
Retail Sales	-\$2,983	-\$2,112	-\$1,271	-\$3,627	-\$9,993
Source: Distilled Spirits Council Office of Economic and Strategic Analysis					

Table 6					
Wine Exports to European Union					
		Value	Liters	Est. 9_liter Cases	Est. Average Case Price
2204.10	SPARKLING WINE OF FRESH GRAPES	\$2,833,583	335,373	37,264	\$76.04
2204.21	WINE OF FRESH GRAPES, IN CONTAINERS HOLDING 2 LITERS OR LESS	\$239,262,947	30,903,321	3,433,702	\$69.68
2204.22	WINE OF FRESH GRAPES, IN CONTAINERS HOLDING OVER 2 LITERS BUT NO MORE THAN 10 LITERS	\$913,485	52,186	5,798	\$157.54
2204.29	WINE OF FRESH GRAPES, IN CONTAINERS HOLDING OVER 10 LITERS	\$202,960,190	165,014,988	18,334,999	\$11.07
Sources: Distilled Spirits Council Office of Economic and Strategic Analysis and U.S. International Trade Commission					

Table 7					
Spirits Exports to European Union					
		Value	Proof Liters	Est. 9_liter Cases	Est. Average Case Price
2207.10	ETHYL ALCOHOL, UNDENATURED FOR BEVERAGE PURPOSES	\$4,966,004	6,163,705	856,070	\$5.80
2208.20.	GRAPE BRANDY	\$4,976,913	689,195	95,722	\$51.99
2208.60	VODKA	\$32,830,485	8,946,018	1,242,503	\$26.42
2028.90	OTHER SPIRITS	\$8,125,004	899,775	124,969	\$65.02
Note: In converting to cases, abv content is assumed to be 40%.					
Sources: Distilled Spirits Council Office of Economic and Strategic Analysis and U.S. International Trade Commission					

Table 8

Impact of 50% tariff					
	Whiskey	Cognac	Cordials	Wine	Total
Old Average Price	\$32.87	\$41.95	\$23.04	\$12.45	
New Average Price	\$41.77	\$55.15	\$29.36	\$16.94	
Price change (\$)	\$8.90	\$13.20	\$6.32	\$4.49	
Price change (%)	27.08%	31.47%	27.43%	36.06%	
Volume change (gallons)	-5,630,538	-3,185,566	-3,427,851	-25,500,027	
9L Case Gain/(Loss)	-2,368,212	-1,339,854	-1,441,759	-10,725,347	
Volume change (%)	-17.25%	-19.44%	-17.43%	-15.58%	
Jobs Gained/(Lost)	-19,552	-7,345	-7,857	-12,381	-47,136
In Millions					
Off-premise Sales	-\$740	-\$534	-\$316	-\$1,309	-\$2,899
On-premise Sales	-\$1,037	-\$749	-\$442	-\$880	-\$3,107
Retail Sales	-\$1,777	-\$1,283	-\$758	-\$2,189	-\$6,006
Source: Distilled Spirits Council Office of Economic and Strategic Analysis					