DISTILLED SPIRITS COUNCIL
OF THE UNITED STATES

March 11, 2025

The Honorable Jamieson Greer
The United States Trade Representative
Office of the United States Trade Representative
600 17th Street, NW
Washington, DC 20508

RE: USTR-2025-0001: Comments to Assist in Reviewing and Identifying Unfair Trade Practices and Initiating All Necessary Actions to Investigate Harm from Non-Reciprocal Trade Arrangements – Submission by the Distilled Spirits Council of the United States, Inc. (90 *Fed. Reg.* 10677 (February 25, 2025))

Dear Ambassador Greer:

On behalf of the Distilled Spirits Council of the United States (DISCUS), I am pleased to submit comments to assist in reviewing and identifying unfair trade practices and initiating actions to investigate harm from non-reciprocal trade arrangements. DISCUS is the national trade association representing the leading producers, marketers, and exporters of distilled spirits in the U.S. Our member companies export to more than 130 countries worldwide, with total U.S. spirits exports in 2024 reaching a record $2.45 billion, up nearly 10% from 2023. The U.S. spirits sector has a fair and reciprocal playing field with 51 countries, with nearly 86% of U.S. spirits exports going to countries that have eliminated tariffs on U.S. spirits. Additionally, approximately 98% of spirits imports originate from countries that have eliminated tariffs on U.S. spirits exports. (USITC Dataweb)

DISCUS looks forward to working with the Trump Administration to achieve its goals of promoting U.S. job growth and manufacturing, which will strengthen the economic vitality of our great country. We very much appreciate the opportunity to provide these comments and will be pleased to supplement them in the future as the issues evolve.

Sincerely,

Robert Maron
Senior Vice President, International Trade Policy
and Market Access

Distilled Spirits Council of the United States
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Washington, DC 20001

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Distilled Spirits Council of the United States
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I. INTRODUCTION

The U.S. spirits sector contributes significantly to the American economy, generating over $200 billion in economic activity annually and supporting approximately 1.7 million jobs across production, distribution, hospitality, and retail. Our industry has a deep connection to agriculture and sourced more than 2.8 billion pounds of grains from American farmers in 2023.

Since 2005, the U.S. spirits sector has experienced a renaissance, and the number of distilleries skyrocketed from fewer than 100 to over 3,100. This growth depends heavily on international trade. Continued access to global markets allows our industry to continue investing in U.S. distilleries, creating jobs, and supporting rural and urban communities. In 2024, 42 states exported American spirits, with 36 exporting American Whiskey.

International trade is essential to the U.S. distilled spirits sector and is instrumental to its long-term viability. Since 2004, global U.S. spirits exports rose nearly 250%, reaching a record $2.45 billion in 2024. This is due in large part to the fair and reciprocal trade that exists for U.S. spirits exporters in 51 markets around the world, including major trading partners such as the EU, Mexico, Canada, and others.

As detailed below, the U.S. spirits sector and spirits trade are unique for a variety of reasons (Section II). These attributes have contributed significantly to the industry's growth and prosperity over the past two decades.

In addition, a large part of this growth has been driven by the fair and reciprocal duty-free trade in spirits between the U.S. and EU. The zero-for-zero agreement on spirits trade was implemented in 1997 and has led to the EU becoming the largest and most important export market for all American spirits, and especially American Whiskeys (Section III).

Finally, we appreciate the opportunity to provide information on tariff and non-tariff barriers in other priority markets where we do not currently have duty-free access (Section IV).

II. UNIQUE NATURE OF U.S. SPIRITS INDUSTRY AND TRADE

A) Distinctive Product Recognition Protects Distillers and Consumers

The spirits sector is deeply interconnected and many U.S. spirits companies own brands on both sides of the Atlantic, as well as in Mexico, Canada, and around the world. Certain types of spirits, such as Bourbon, Tennessee Whiskey, Tequila, Cognac, and Scotch Whisky, are recognized as "distinctive products" by the U.S. and our trading partners. Bourbon and Tennessee Whiskey, the largest categories of American spirits exports, are recognized by 45 countries as "distinctive products" of the U.S. They are not substitutable and can only be made in their designated countries - Bourbon and Tennessee Whiskey in the U.S., Tequila in Mexico, Cognac in France, and Scotch Whisky in Scotland. Thus, the production of Bourbon and Tennessee Whiskey cannot move overseas, and the production of Tequila, Cognac, and Scotch Whisky cannot be on-shored. This recognition protects the integrity of these premium products and ensures their quality and authenticity for consumers in the United States and worldwide.

In 2024, Bourbon and Tennessee Whiskey accounted for 54% of total U.S. spirits exports, and 68% of U.S. spirits imports were categories recognized in the U.S. as distinctive products of their respective countries.

B) U.S. Spirits Have a Fair a Reciprocal Playing Field with Our Major Trading Partners

The U.S. spirits sector has a fair and reciprocal playing field with 51 countries, including our major trading partners, the EU (27 members), UK, Canada, Mexico, Japan, and Australia, in addition to Bahrain, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Japan, Jordan, Macedonia, Morocco, Nicaragua, Oman, Peru, Singapore, South Korea, Taiwan, and Ukraine.

In fact, nearly 86% of U.S. spirits exports ($2.1 billion) go to countries that eliminated tariffs on U.S. spirits. In exchange, the U.S. opened its market for imported spirits by eliminating tariffs. As a result, approximately 98% of spirits imported into the U.S. originate from countries that have eliminated tariffs on U.S. spirits exports. The U.S. spirits sector is the model for how fair and reciprocal trade works.

In contrast, U.S. spirits exports to high-tariff countries, such as India (100% tariff on bottled Bourbon, 150% tariff on all other spirits), Vietnam (45% tariff) Brazil (20% tariff on all imported distilled spirits, except bulk whiskey, which is 12% tariff) and South Africa (tariffs on imported spirits range from 1.54 Rand/liter for bottled spirits to 1.36 Rand/liter for spirits imported in bulk), reached $86.7 million, accounting for only 3% of total U.S. spirits exports in 2024. Clearly, the elimination of tariffs leads to an increase in U.S. spirits exports.

In particular, the tariff elimination commitments regarding distilled spirits products secured during the Uruguay Round, which led to the development of the World Trade Organization (WTO) in 1994, and subsequent negotiations under the U.S. government's "zero-for-zero" initiative have paved the way for a significant increase in U.S distilled spirits exports. At the outset, participation in the spirits "zero-for-zero" was limited to the U.S. and the EU. However, other countries, including Japan, Canada, Macedonia, Taiwan and Ukraine have since also agreed to eliminate tariffs on spirits imports on a Most Favoured Nation (MFN) basis.

Since the "zero-for-zero" agreement came into effect in 1997, the value of U.S. spirits exports to the EU (current membership) increased by nearly 620%, from $171 million to nearly $1.2 billion in 2024. The "zero-for-zero" agreement continues to produce benefits for U.S. spirits exports. Specifically, as countries have joined the EU, they are required to adopt the EU's common external tariff, which, in the case of distilled spirits, is zero for practically all spirits. For example, exports to Latvia, which is currently the 21st largest destination for U.S. distilled spirits, increased by almost 868%, from $1.8 million in 2004 when it joined the EU, to $17 million in 2024. Similarly, exports to Poland, which is the 11th largest market, increased by nearly 7,795%, from $1.2 million in 2004 when it joined the EU to $93.8 million in 2024. Prior to Poland joining the EU, U.S. spirits faced tariffs ranging from 75% to 105% *ad valorem*. In the case of Japan, U.S. distilled exports grew from $68 million in 2002, when the tariff was eliminated, to $101 million in 2024, representing a growth rate of 48%.

C) Tariffs on Imported Spirits Will Harm U.S. Spirits Exports

Tariffs on imported spirits would likely result in new retaliatory tariffs on U.S. spirits exports, jeopardizing U.S. exports and investments in U.S. distilleries, reducing demand for U.S.-grown grains, and threatening workers' livelihoods across the supply chain.

Tariffs imposed by the EU and UK on American Whiskeys and other U.S. spirits from 2018 to 2021 in the steel and aluminum and large civil aircraft disputes negatively impacted U.S. spirits producers. Total American Whiskey exports dropped by 18%, and total spirits exports fell by 12% during that period. These tariffs eroded access to our largest export market, halted investments in the U.S., prevented U.S. job growth, and limited our industry's ability to capture new markets. The continued threat of a return of retaliatory tariffs and new import tariffs poses a serious risk to the U.S. spirits sector's livelihood.

Most recently, Canada, our second-largest export market, imposed a 25% tariff on all American spirits exports in response to new U.S. tariffs on Canadian imports. Additionally, most Premiers have ordered their Provincial spirits distribution and retail monopolies to remove all U.S. spirits from retail shelves and remove existing products from the shelves.

We are particularly concerned that the EU may reimpose its 50% tariff on American Whiskeys as early as March 12, 2025, when U.S. tariffs on imported steel and aluminum are imposed, and by March 31, 2025, if there is no agreement on steel and aluminum or if the EU does not extend the suspension of its tariff. The U.S. announced it would terminate the steel and aluminum agreement with the EU on March 12, 2025.

We are working closely with our spirits sector colleagues worldwide and particularly in Canada, Mexico and the EU, who have consistently called on their respective governments to permanently remove retaliatory tariffs on American spirits and not impose new tariffs.

D) Tariffs on Imported Spirits Will Harm, Not Create, U.S. Jobs and Should Not be Imposed

The U.S. beverage alcohol marketplace has become increasingly difficult, and our distillers and related sectors are facing greater challenges. We believe imposing new tariffs on imported spirits would harm, not help, American businesses.

We estimate that a 10% tariff on imported distilled spirits could result in over 28,000 American job losses across production, distribution, hospitality, and retail and nearly $2.4 billion in lost sales. A 20% tariff could cost 54,000 U.S. jobs and nearly $4.5 billion in lost sales. Jobs in the hospitality sector, which is still in a long and fragile recovery from the pandemic, would be particularly hard hit, threatening the livelihood of tipped workers and small businesses across the country.

We fully appreciate and support the Administration's goals to support job growth. As laid out above, we are concerned that tariffs on spirits would likely result in new retaliatory tariffs, jeopardizing U.S. exports and investments in U.S. distilleries, reducing demand for U.S.-grown grains, and threatening workers' livelihoods across the supply chain.

Given the unique nature of the U.S. spirits sector, we respectfully request that spirits be exempted from any current or new tariffs. Additionally, we urge the Administration to prioritize ensuring the EU does not reimpose its suspended tariff on American Whiskeys.

III. IMPORTANCE OF THE EU MARKET FOR U.S. SPIRITS EXPORTERS

Since 1997, the U.S. and EU spirits industries have largely enjoyed duty-free access to each other's markets. This duty-free access was provided for under the "zero-for-zero" agreement negotiated in connection with the Uruguay Round by the U.S. and the EU (and subsequently several other countries) to eliminate tariffs on virtually all distilled spirits products on a most-favored-nation (MFN) basis.

Due to the elimination of tariffs, the EU is the largest export market for American spirits and American Whiskeys. In 2024, U.S. spirits exports to the EU reached $1.2 billion, up by nearly 40% over 2023. The EU accounts for 51% of total U.S. spirits exports. American Whiskey exports to the EU reached $699 million, accounting for 53% of total American Whiskey exports.

Between June 2018-January 2022, the EU imposed a 25% retaliatory tariff on American Whiskeys in response to U.S. Section 232 tariffs on steel and aluminum. Due to the imposition of the retaliatory tariff, American Whiskey exports to the EU plunged 20%, from $552 million to $440 million (2018-2021).

In October 2022, the U.S. and EU agreed to suspend the EU's 25% retaliatory tariff on American Whiskeys for two years starting January 1, 2022. As a result, the export of U.S. whiskey to the EU surged by over 60%, climbing from $439 million in 2021 to $699 million in 2024. This accounted for 50% of all American Whiskey exports, surpassing the pre-tariff level of $518 million in 2017.

Between November 2020 and June 2021, the EU imposed a 25% tariff on U.S. rum, brandy, and vodka in connection to the WTO Boeing-Airbus dispute. In June 2021, the U.S. agreed with the EU to suspend tariffs for five years (July 2026) in the dispute.

We are particularly concerned that the EU may reimpose its 50% tariff on American Whiskeys as early as March 12, 2025, coinciding with the imposition of U.S. tariffs on steel and aluminum and the termination of agreements with the EU and other countries. By law, the EU must impose its 50% tariff on American Whiskeys on April 1, 2025, if no agreement is reached with the U.S. or if the suspension is not extended by March 31, 2025.

We urge the administration to prioritize ensuring that the EU does not impose a 50% tariff on American whiskey and to secure the permanent return to zero-for-zero tariffs on distilled spirits between the U.S. and EU.

Finally, as we have noted previously[1], Ireland's Public Health (Alcohol) Bill, which requires information on calories and grams of alcohol per container, a pregnancy pictograph warning, and cancer warning statements, goes into effect in May 2026. DISCUS is committed to combatting the harmful use of alcohol in all forms and acknowledges that beverage alcohol products can be abused and result in harm. We respectfully request the U.S. government's support to urge the EU to delay the adoption of Ireland's proposal as it continues its work at the EU level on warning labels.

[1] See DISCUS' October 2024 submission to USTR of the U.S. spirits sector's trade barriers: https://www.distilledspirits.org/wp-content/uploads/2024/10/Submission-of-the-Distilled-Spirits-Council-of-the-US.-Comments-Regarding-Foreign-Trade-Barriers-for-the-2025-NTE-Report-Oct-2024-1.pdf

IV. PRIORITY MARKETS

In the key export markets that have agreed to eliminate tariffs on U.S. spirits, including the EU, UK, Canada, Mexico, and Japan, the U.S. spirits sector does not face significant non-tariff trade barriers that inhibit U.S. spirits from competing on a level playing field with domestically produced products.

However, there are several countries identified in this Federal Register Notice that impose a range of trade barriers that inhibit the sector's long-term growth prospects. These include discriminatory taxes, tariffs, and unnecessarily trade restrictive or discriminatory standards/regulations in Argentina, Brazil, China, India, Indonesia, Malaysia, South Africa, Thailand, Türkiye, and Vietnam. These are priority markets which have imposed barriers that have prohibited U.S. spirits exports from enjoying fair and reciprocal trade.

In addition to the priority markets included here, DISCUS made a submission in October 2024 to USTR, including the comprehensive list of the U.S. spirits sector's trade barriers. This submission can be viewed here.[2]

[2] https://www.distilledspirits.org/wp-content/uploads/2024/10/Submission-of-the-Distilled-Spirits-Council-of-the-US.-Comments-Regarding-Foreign-Trade-Barriers-for-the-2025-NTE-Report-Oct-2024-1.pdf

ARGENTINA

I. Import Policies

Tariffs

In October 2023, Argentina increased its tariff on bottled whiskey from 20% to 35% *ad valorem*, which is its WTO-bound rate. Argentina is a member of the MERCOSUR trading bloc, along with Brazil, Paraguay, and Uruguay, and its common external tariff for whiskey is 20% *ad valorem*. Argentina currently applies a tariff of up to 12% *ad valorem* on bulk whiskey and 20% *ad valorem* on all other imported distilled spirits.

In December 2024, the EU and MERCOSUR reached a political agreement for a comprehensive free trade agreement. The agreement needs to be ratified by individual EU member states and MERCOSUR before it comes into force. The agreement will eliminate tariffs on EU spirits. As such, U.S. distilled spirits will soon be at a competitive disadvantage in the Argentinian market vis-à-vis EU-origin spirits, such as Irish Whiskey and Cognac.

Request: DISCUS seeks the U.S. government's support in securing Argentina's and the members of MERCOSUR's elimination of its tariff on American spirits, ensuring that U.S.-origin spirits are not at a competitive disadvantage vis-à-vis EU-origin spirits.

II. Trade Statistics & Spirits Market

In 2024, Argentina was the 35th largest export market for American spirits, with exports reaching $8 million, a 27% decrease from 2023. Argentina was the 50th largest export market for American Whiskey in 2024, reaching $2 million, up nearly 400% from 2023. (USITC Dataweb)

In 2023, Argentina was the 22nd largest spirits market globally in terms of retail sales, with a market value of $3.6 billion. The whiskey market in Argentina reached $492 million, with Scotch Whisky accounting for 55% of the market. American Whiskeys held a 9% share of Argentina's whiskey market, while Irish Whiskeys, which will soon gain a competitive advantage over American Whiskeys with the implementation of the EU-MERCOSUR agreement, accounted for 8% (Euromonitor).

BRAZIL

I. Import Barriers

Tariffs

Brazil applies a tariff of 10.8% *ad valorem* on whiskey bulk whiskey over 50% a.b.v and an 18% *ad valorem* tariff on all other spirits. Brazil is a member of the MERCOSUR trading bloc, along with Argentina, Paraguay, and Uruguay.

In December 2024, the EU and MERCOSUR reached a political agreement for a comprehensive free trade agreement. The agreement needs to be ratified by individual EU member states and MERCOSUR before it comes into force. The agreement will eliminate tariffs on EU spirits. As such, U.S. distilled spirits will soon be at a competitive disadvantage in the Brazilian market vis-à-vis EU-origin spirits, such as Irish Whiskey and Cognac.

Request: DISCUS seeks the U.S. government's support in securing Brazil's and the members of MERCOSUR's elimination of its tariff on American spirits, ensuring that U.S.-origin spirits are not at a competitive disadvantage vis-à-vis EU-origin spirits.

II. Other Barriers

Discriminatory Taxation

Brazil applies a 19.5% *ad valorem* excise tax rate for most spirits, including "Bourbon," "Tennessee Whiskey," (which Brazil recognizes as distinctive products of the U.S.), and rum. However, "Cachaça," a distinctive product of Brazil, faces a 16.25% *ad valorem* rate. The current rates for spirits are listed below:

TIPI CODE	RATE (%)
2208.20.00 (brandy/pisco)	19.5
2208.30 (whiskies)	19.5
2208.40.00 (Cachaça) 2208.40.00 (rum)	16.25 19.5
2208.50.00 (gin)	19.5
2208.60.00 (vodka)	19.5
2208.70.00 (liqueurs and cordials)	19.5

2208.90.00 (except Ex 01 and Ex 02)	19.5
2208.90.00 Ex 02 (ready to drink products with an a.b.v less than 8 %)	13

Brazil’s current excise tax violates GATT Article III, paragraph 2, which mandates non-discriminatory treatment of imports with respect to internal taxes. In four WTO dispute settlement cases concerning internal taxation of beverage alcohol (Japan – Alcoholic Beverages (DS8, 10 and 11); Korea – Alcoholic Beverages (DS 75 and 84); Chile – Alcoholic Beverages (DS 87 and 110); and, the Philippines -- Taxes on Distilled Spirits (DS396 and DS403)) the WTO has upheld the proposition that all products under the HTS 2208 sub-chapter, including whiskey, rum, vodka, gin, etc., are, at a minimum, directly competitive and substitutable products and should therefore be taxed similarly in compliance with GATT Article III, paragraph 2.

Request: DISCUS seeks the U.S. government’s support in ensuring that Brazil eliminates its discriminatory excise tax.

III. Trade Statistics and Spirits Market

In 2024, U.S. spirits exports to Brazil increased by 29%, reaching $62.3 million, making Brazil the twelfth-largest export market for American spirits. Brazil was the eighth-largest export market for American Whiskey in 2024, with exports totaling $25.6 million, reflecting a nearly 32% increase from 2023 (USITC Dataweb).

In 2023, Brazil ranked as the ninth-largest spirits market globally in terms of retail sales, with a market value of $13.4 billion. The whiskey market in Brazil reached $3.8 billion, with Scotch Whisky accounting for 85% of the market. American Whiskeys held a 9% share of Brazil's whiskey market, while Irish Whiskeys, which will soon gain a competitive advantage over American Whiskeys with the implementation of the EU-MERCOSUR agreement, accounted for 3% (Euromonitor).

CHINA

I. Import Policies

Retaliatory Tariffs

Since July 2018, China has imposed a 25% retaliatory tariff on American Whiskeys and a retaliatory tariff on rum, gin, vodka, liqueurs, brandy, and some "others" since September 2018, in response to the U.S. Section 301 actions. On December 28, 2024, China's Ministry of Finance announced the 2025 tariff adjustment plan from the State Council Tariff Commission (SCTC). The announcement included an increase in the Most Favored Nation (MFN) tariff on whiskey and brandy from 5% to the bound MFN tariff rate of 10%, aligning with the tariff rate for all other spirits categories. The current ad valorem tariff rates (MFN + retaliatory tariffs) are 35% for whiskey, rum, gin, vodka, liqueurs, brandy, and certain other spirits.

China's retaliatory tariffs on American spirits have stalled growth in U.S. exports to the world's largest distilled spirits market (Euromonitor). Since retaliatory tariffs were imposed, American spirits exports to China remained relatively flat between 2018 and 2024. In the decade before the retaliatory tariffs were imposed, American spirits exports to China increased by nearly 137%.

U.S. companies may apply for an annual exemption from these retaliatory tariffs. However, they face uncertainty as to whether exemptions will be granted.

Request: DISCUS urges the U.S. government to secure the removal of China's tariffs on U.S. spirits so that U.S. spirits exports may compete on a fair and reciprocal zero-for-zero tariff level.

II. Trade Statistics and Spirits Market

In 2024, U.S. spirits exports to China reached $22 million, reflecting an increase of approximately 6% from 2023. American Whiskeys accounted for 56% of total U.S. spirits exports (USITC Dataweb).

In 2023, China's spirits market achieved $180 billion in sales, making it the largest spirits market globally. The market is predominantly dominated by domestically produced Baiju, which accounts for nearly 93% of the total value of spirits sales. China's whiskey market reached $2.2 billion, representing approximately 1% of the total spirits market. Scotch Whisky accounted for 65% of total whiskey sales, followed by Japanese Whiskey at 25% and American Whiskey at 11% (Euromonitor)

INDIA

I. Import Policies

Tariffs

We appreciate President Trump's leadership in securing the recent reduction of India's tariff on bottled Bourbon from 150% to 100%. This tariff reduction is a first step that will help open opportunities for our Bourbon producers to increase their exports to the world's largest whiskey market and bolster American manufacturing jobs. However, India's tariff on bulk Bourbon and all other American spirits remains at 150%, while the U.S. does not impose a tariff on Indian spirits.

Despite being the world's largest whiskey market by volume, American Whiskey exports to India were less than those exported to Singapore, New Zealand, and the United Arab Emirates. In 2024, American Whiskey exports to India totaled $8.8 million, making it the 23rd largest American Whiskey market.

India is engaged in trade agreement negotiations with the EU and the UK, which are major spirits and whiskey exporters. Improving access for European and/or UK origin spirits to India would place American Whiskeys at a competitive disadvantage vis-à-vis Scotch Whisky and Irish Whiskey. India has also entered into an ECT with Australia, which includes preferential market access for certain wines. We understand that discussions with Australia are ongoing to expand preferential market access opportunities to include distilled spirits.

Request: DISCUS respectfully requests the government's support to build on this positive momentum so all categories of U.S. distilled spirits exported to India may compete on a fair and reciprocal zero-for-zero tariff level and ensure American spirits are not at a competitive disadvantage vis-à-vis EU and UK distilled spirits

Customs Valuation

India's Special Valuation Branch (SVB) often takes several years to issue a final determination on the value of imported products. Moreover, there is no set timeline for investigations to conclude and they may be indefinite. This lengthy delay results in significant uncertainty, disrupts business planning and may result in companies facing significantly higher tariff liabilities than expected on a retrospective basis. This uncertainty is compounded by changes in the marketplace, such as exchange rates.

Request: DISCUS requests the government's assistance in securing a commitment from India to complete its customs valuation process in a fair, reasonable, and expeditious manner consistent with the aims of the WTO Valuation Agreement (Article VII of GATT 1994).

II. Technical Barriers

Standards

India's Food Safety Standards (Alcoholic Beverages) Regulations, which set down the mandatory beverage alcohol standards and labeling requirements, went into effect on July 1, 2021. It does not include protection for "Bourbon," "Tennessee Whiskey," and "American Rye Whiskey," as distinctive products of the U.S., which ensures that such products sold in India are produced in the U.S. in accordance with U.S. laws and regulations.

In addition, the Alcoholic Beverages Regulation includes maximum limits on a range of naturally occurring constituents in distilled spirits, including "acetic acids," "ethyl acetate" and "acetaldehyde". These substances are not regulated in minimum or maximum levels in other large spirits-producing and consuming markets such as the U.S., Japan and the EU. The rationale for such limits is also unclear as the thresholds are not consistent across categories. For instance, it is noteworthy that for the same parameter (e.g. acetic acid) FSSAI have set different permissible thresholds for blended whiskey (100g/100 lpa) vs malt whiskeys (150g/100 lpa) vs coconut fenny (a traditional spirit drink from south India) which has an acetic acid threshold of 200g/100 lpa. These arbitrary parameters under the guise of 'food safety' constitute a market barrier for U.S. products.

Moreover, the category definitions for brandy, gin, rum, vodka, and whiskey provide that the ethyl alcohol content may range from 36-50% a.b.v. The U.S. has established a minimum of 40% a.b.v. for all spirits (excluding flavored spirits, liqueurs, cordials, and specialties), with no upper limit. These arbitrary limits under the guise of 'food safety' constitute a market barrier for U.S. products, with barrel-proof spirits typically falling in the range of 52–66% a.b.v.

FSSAI officials regularly test samples of imported spirits to the analytical parameters in the standards in FSSAI-approved labs. The same batch is often tested in different labs, which may yield different results. This unreliable testing results in products being blocked from the market. India does not accept U.S. Certificates of Analysis (COA) from TTB-certified chemists and laboratories.

Request: DISCUS seeks the U.S. government's assistance in urging India to: 1) recognize "Bourbon," "Tennessee Whiskey," and "American Rye Whiskey," as distinctive products of the U.S.; 2) either grant an exemption for distinctive products or eliminate the use of analytical parameters that are not food safety related as well as maximum alcohol content levels; and 3) accept COAs from TTB-certified chemists and laboratories.

Single Malt and Single Grain Standards

In July 2022, India notified amendments to its *Food Safety and Standards (Alcoholic Beverages) Regulations, 2018* to the WTO (G/TBT/N/IND/230), which included its definition of "Single malt or Single grain whiskey". On August 21, 2023, FSSAI published its final regulation and implementation date. India did not take into account any of DISCUS' comments. Under the final regulation, India did not eliminate the requirement that Single malt and Single grain" whiskeys be produced exclusively using pot stills, or clarify what it means for a "Single malt and Single grain whiskey" to be "produced in a single distillery."

We are concerned about India's decision to maintain the requirement that single malt or single grain whiskies be distilled exclusively using pot stills and uncertainty about what it means to be "produced in a single distillery." In December 2024, the Alcohol and Tobacco Tax and Trade Bureau (TTB) approved a standard of identity for "American Single Malt Whiskey" which does not require it to be produced exclusively using pot stills. In addition, the barley is not required to be malted at the distillery, although it must occur in the U.S. For this reason, requiring "Single malt" or "Single grain whiskeys" to be produced only using pot stills and malting to occur at the distillery would be an unreasonable barrier for the newly defined American Single Malt Whisky category.

Request: DISCUS respectfully requests the U.S. government's assistance in 1) urging India to eliminate the requirement that "Single malt or Single grain" whiskeys be distilled in a pot still and 2) clarifying what it means for a "Single malt or Single grain whiskey" to be "produced in a single distillery".

RTDs

In June 2023, the Food Safety and Standards Authority of India (FSSAI) notified its proposed *Draft Food Safety and Standards (Alcoholic Beverages) Amendment Regulations, 2023*

(G/TBT/N/IND/271) to the WTO. The proposal addresses definitions of Mead (Honey wine), Craft Beer, Indian liquors, Low Alcoholic Beverages/ RTD, Wine based Beverages, and Country Liquors.

RTDs (such as premixed cocktails) face issues with importation and marketing in India because there is no defined RTD category. They are treated inconsistently by FSSAI, Customs, and state excise authorities. India's proposed "Ready-To-Drink/Low alcoholic beverages" definition includes problematic maximum alcohol content requirements, analytical parameters, and the prohibition on the use of wine and beer as the alcohol base for such beverages, which could bar the importation of certain U.S.-origin RTDs produced in accordance with U.S. laws and regulations.

In the U.S., RTDs are one of the fastest-growing categories of distilled spirit products in 2024. Sales increased by 16.5% to reach $3.3 billion in sales in the U.S.

Request: DISCUS respectfully requests the U.S. government's assistance in urging India to 1) create a single RTD category for spirits, beer, and wine-based products and allow for them to be mixed, 2) eliminate the maximum alcohol content requirement or, at a minimum, increase it to 15% a.b.v., 3) eliminate the proposed use of analytical parameters, and 4) clarify whether both "Ready-To-Drink" and "low alcoholic beverages" need to be stated on the label or whether either term is sufficient.

III. Other Barriers

Price Controls

In many Indian states, the price at which U.S. alcohol producers can sell their products—often to state-linked entities holding monopolies on these controlled goods—is determined by state excise authorities.

Additionally, many states require suppliers to offer their products at the lowest price available in neighboring states or across the country. This disregards market dynamics and realities, creating a 'circular reference' that prevents manufacturers from raising prices, even when market conditions would allow it.

Collectively, this establishes a de facto system of price controls, depriving brand owners of their pricing freedom—the ability to freely determine the price at which they wish to sell their products.

In some states, no price increases have been permitted for nearly a decade, forcing businesses to supply at historical prices that have not been adjusted for inflation.

Request: DISCUS respectfully requests the U.S. government's assistance in urging the Indian Government and State bodies to allow producers and suppliers to determine the prices of their brands freely.

Outstanding Payment – Telangana

Since October 2023, the Telangana State Beverage Corporation (TSBCL), the alcohol monopoly in the Indian State of Telangana, has been withholding and delaying payments to spirits producers. Under the terms of payment with the TSBCL, payments are required to be made within 45 days. The TSBCL has made some payments but is in significant arrears with international and domestic spirits, beer, and wine producers.

DISCUS member companies have reported that this has created a substantial financial strain, affecting cash flow and overall operations and creating significant market uncertainty.

Request: We respectfully request the U.S. government's support to urge the TSBCL take immediate action to 1) expedite all outstanding payments to U.S. producers without further delay and 2) make all future payments within 45 days as agreed to in the original payment terms.

Label and New Product Registrations – Telangana, Haryana

Distilled spirits producers must undergo burdensome annual label renewals to sell their products in each state. Additionally, new products must be registered with state excise authorities before being approved for sale.

Several issues related to brand label registration and renewals increase costs for U.S. businesses. These issues can be grouped under the following headings:

- Burdensome and excessive information requests: These requests often do not pertain to the actual label registration but to the product composition and pricing structure.
- Manual approval processes: The lack of digitization necessitates numerous interventions due to the absence of a digital single-window system.

- Lack of transparent and time-bound processes: This deficiency prevents U.S. businesses from having clarity and confidence in due process, prolonging administrative procedures for several months.

Consequently, the registration of some U.S. brands has been pending for over six months, as seen in the Haryana and Telangana markets. This delay has caused U.S. companies to miss out on sales, thereby impacting their operations and profitability.

Request: DISCUS respectfully requests the U.S. government's assistance urging the Indian Government and State bodies to ensure a transparent, time-bound, and efficient label registration process for US product labels.

IV. Trade Statistics and Spirits Market

U.S. spirits exports to India were valued at $9.8 million in 2024, down 51% from 2023. American Whiskey accounts for 89% of total spirits exports. Despite being the largest whiskey market in the world by volume, American Whiskey exports to India totaled only $8.8 million in 2024, placing it behind much smaller markets like Singapore, New Zealand, and the UAE. (USITC Dataweb).

India is the world's largest whiskey market in terms of volume and the second-largest in terms of value. In 2023, India's spirit market was valued at $35 billion; at $23.7 billion, the whiskey category represents 67% of the total. The whiskey market is expected to increase by nearly 54% to reach $36.6 billion in 2028. However, due to India's 150% *ad valorem* tariff on spirits and other non-tariff market access barriers, total imports of bottled spirits represent only 1% of India's spirits market (Euromonitor International).

INDONESIA

I. Import Policies

Tariffs

In 2015, Indonesia changed its import tariff on distilled spirits to 150% *ad valorem*. Previously, Indonesia applied a specific tariff rate per liter.

***Request*:** DISCUS urges the U.S. government to secure the elimination of Indonesia's tariff on U.S. spirits so that U.S. spirits exports may compete on a fair and reciprocal zero-for-zero tariff level.

Import Approval System

As of 2018, Indonesia no longer applies a quantitative limit on importing beverage alcohol products. In 2017, category C products (which includes all spirits) were not allocated any quotas, amounting to a temporary block on imports. Under the new system, importers must apply for tax stamps and an import permit based on their needs and the demonstrated ability to pay the necessary excise taxes and import duties. This requirement is overly burdensome because the tariff and excise taxes are so high. According to industry contacts, only 15 import licenses are issued and subject to a quota, which limits the import volumes and requires international companies to appoint local third-party importers. In addition, it is highly prone to delays.

***Request*:** DISCUS seeks the U.S. government's assistance in raising these concerns with the Indonesian government.

II. Technical Barriers

Standards

In June 2015, Indonesia notified its proposal to revise its definitions for all food products to the WTO (G/TBT/N/IDN/101). DISCUS provided comments raising concerns with potentially problematic definitions of whiskey, gin, brandy, vodka, proposed minimum alcohol content requirements, and limits on methanol. In May 2023, Indonesia notified the final version of definitions for all food products, including distilled spirits, to the WTO's TBT Committee (G/TBT/N/IDN/101/Add.3). In response to DISCUS' comments, Indonesia partially amended the definition of gin and other items.

***Request**:* DISCUS requests the U.S. government's assistance in urging Indonesia to: 1) adopt a standard of identity and labeling requirement for whiskey consistent with U.S. regulations and provide recognition for "Bourbon," "Tennessee Whiskey," and "American Rye Whiskey" as distinctive products of the U.S.; 2) clarify that gin does not need to be without color and may contain other aromatics and flavoring, in addition to juniper; 3) eliminate the minimum ethyl alcohol requirement for liqueurs; 4) adopt a definition of flavored spirits and establish a minimum alcohol content requirement of 30% a.b.v. consistent with U.S. standards; 5) provide that vodka may possess the characteristics of the raw materials and that it may contain up to one gram per liter of citric acid; and 6) permit the use of coloring and blending materials in distilled spirits products.

III. Other Barriers

Discriminatory Taxation

Since at least 2006, Indonesia has imposed a discriminatory tax regime for products above 5% a.b.v., favoring domestically-produced spirits. On December 12, 2018, the Ministry of Finance (MOF) issued regulation No. 158/2018 to replace MOF regulation No. 207/2013. The regulation imposed a new excise tax on ethyl alcohol, beverages, and concentrates containing ethyl alcohol. The regulation went into effect on January 1, 2019. On December 18, 2023, the Ministry of Finance issued Regulation No. 160 of 2023, increasing the excise tax rate and maintaining the discriminatory treatment between domestic and imported products.

Current Excise Tax (Rp. Per liter)		
Alcohol Content	**Local**	**Imported**
Up to 5% a.b.v.	16,500	16,500
Between 5% and 20% a.b.v.	42,500	53,000
Greater than 20% a.b.v	101,000	152,000

This discriminatory taxation violates Indonesia's WTO obligations under Article III: 2 of GATT 1994. In four dispute settlement cases dealing with internal taxation of beverage alcohol (Japan, Korea, Chile, and the Philippines), the WTO has upheld the position that all products under the HTS 2208 sub-chapter, including rum, vodka, gin, whiskey, brandy, tequila, etc., are, at a minimum, directly competitive and substitutable products and should be taxed similarly, as required under Article III: 2 of GATT 1994.

Request: DISCUS seeks the U.S. government's assistance in securing Indonesia's removal of its discriminatory taxation regime for spirits as soon as possible.

IV. Trade Statistics

In 2024, there were no direct exports of U.S. spirits to Indonesia (USITC Dataweb). However, according to Euromonitor International, imported whiskeys and other categories are available in the Indonesian market. In 2023, Indonesia's spirits market reached $397 million in retail sales, with total whiskey sales amounting to $68 million. Scotch Whisky accounted for 88% of total whiskey sales, followed by American Whiskey at 9% ($6.6 million) (Euromonitor International).

MALAYSIA

I. Import Barriers

Tariffs

Malaysia's fully phased-in bound tariffs on imported spirits are extremely high, ranging from 620 to 1,200 Malaysian Ringgits (RM) per deciliter of alcohol. Its applied tariffs on imported spirits are also exceptionally high.

Product	**RM (current)**
Brandy, Whiskey, Vodka	58 per liter
Gin and Rum	55 per liter
Liqueurs (not exceeding 57% a.b.v.)	93.5 per liter of pure alcohol
Other Liqueurs	64.5 per liter of pure alcohol
Samsu	26.5 per liter of pure alcohol
Arrack and Pineapple Spirit	20 per liter

U.S. distilled spirits will soon be at a competitive disadvantage in the Malaysian market vis-à-vis UK-origin spirits, such as Blended Scotch Whiskey. UK-origin spirits will soon enter duty-free under the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).

Request: DISCUS respectfully requests that the U.S. government secure the elimination of Malaysia's tariff on American spirits, ensuring that U.S.-origin spirits are not at a competitive disadvantage vis-à-vis UK-origin spirits.

II. Other Barriers

Discriminatory Taxation

In March 2016, Malaysia changed the structure and rates of its discriminatory excise tax regime for beverage alcohol products. Malaysia changed the structure of its excise tax from a hybrid tax, with an *ad valorem* and specific rate component, to a specific tax based on alcohol content. However, Malaysia retained the long-standing discriminatory nature of its excise tax by continuing to assess a lower tax rate on domestic spirits (samsu, arrack, and other local spirits including what is defined as 'Compound Hard Liquor') than on imported products. For example, the excise tax on samsu (overwhelmingly produced locally) is 60.00RM per liter of pure alcohol. In contrast, the tax assessed on whiskey (the vast majority of which is imported) is 150.00RM per liter. The current rates for spirits are listed below:

Tariff Code	**Description**		**Excise Duty**
22.08	***Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs, and other spirituous beverages.***		**Rate (RM) per LPA**
2208.20		- Spirits obtained by distilling grape wine or grape marc:	
	100	Brandy	150.00
	900	Other	150.00
2208.30	000	Whiskeys	150.00
2208.40	000	Rum and tafia	150.00
2208.50	000	Gin and Geneva	150.00
2208.60	000	Vodka	150.00
2208.70	100	Liqueurs and cordials (not exceeding 57%)	60.00
2208.90	300	Samsu (including medicated samsu)	60.00
2208.90	500	Arrack and pineapple spirits (not exceeding 40%)	60.00
2208.90	300	Bitters	60.00
		Compound Hard Liquor	60.00

In four dispute settlement cases dealing with internal taxation of beverage alcohol (Japan, Korea, Chile, and the Philippines), the WTO has upheld the position that all products under the HTS 2208 sub-chapter, including rum, vodka, gin, whisk(e)y, brandy, tequila, etc., are, at a minimum, directly competitive and substitutable products and, therefore, should be taxed similarly, as required by GATT Article III, paragraph 2.

Request: DISCUS urges the U.S. government to secure the elimination of the discriminatory aspects of Malaysia's excise tax regime.

III. Technical Barriers

Standards

In October 2022, Malaysia notified revisions to its beverage alcohol standards to the WTO (G/TBT/N/MYS/114). DISCUS submitted a comprehensive comment expressing concerns about spirits under 17% a.b.v. being blocked from the market and urging Malaysia to amend its standards of identity to be consistent with the U.S. standards and provide distinctive product recognition for certain American Whiskeys.

In November 2022, DISCUS received a response from Malaysia. Malaysia stated that its minimum alcohol content requirement and the prohibition on the sale of spirits that do not comply with the standards are longstanding. This is problematic for spirits-based RTDs, as there is no standard for them, and they may not be imported. However, non-spirits based lower alcohol beverages are allowed in the market. Malaysia indicated it would not allow the importation of the blocked products, but they could be reexported instead. In December 2022, DISCUS responded with a letter that largely reiterated the requests made in the October 2022 comment.

In the U.S., RTDs are one of the fastest-growing categories of distilled spirit products in 2024. Sales increased by 16.5% to reach $3.3 billion in sales in the U.S.

In March 2024, DISCUS supported an application prepared by the World Spirits Alliance (WSA) requesting Malaysia establish a definition for spirits based RTDs. DISCUS understands Malaysia is still reviewing feedback to the general standard, the WSA's RTD application, and is working on revised definitions.

Request: DISCUS respectfully requests the U.S. government's support in urging Malaysia to 1) amend its standards to allow spirits bottled at less than 17% a.b.v., 2) adopt a definition of spirits based RTDs consistent with the WSA proposal, 3) modify the definition of vodka, 4) add a definition of flavored spirits consistent with U.S. standards, 5) provide distinctive product recognition for "Bourbon," "Tennessee Whiskey," and "American Rye Whiskey", and 6) modify its definition of liqueurs to establish no minimum alcohol content requirement.

IV. <u>Trade Statistics and Spirits Market</u>

In 2024, Malaysia's imports of U.S. spirits were valued at $3.7 million, representing a 314% increase from 2023 and making it the 51st largest export market for American spirits. American Whiskeys accounted for 94% of total U.S. spirits exports, reaching $3.4 million.

In 2023, retail sales of distilled spirits in Malaysia reached $668 million. Malaysia's whiskey market reached $206 million, with Scotch Whisky accounting for 90% of the market. American Whiskeys accounted for 7% of Malaysia's whiskey market. (Euromonitor)

SOUTH AFRICA

I. Import Policies

Tariffs

South Africa's applied tariffs on imported spirits range from 1.54 Rand/liter for bottled spirits to 1.36 Rand/liter for spirits imported in bulk. Although its applied rates are relatively low on an *ad valorem*-equivalent basis (about 5%), its WTO-bound rates, which were fully phased-in as of January 1, 2000, are exorbitant. South Africa's bound tariff rate on imports of bottled grape brandy, whisky, rum, and gin is 67% *ad valorem*. Imports of these spirits in bulk containers are subject to a bound tariff rate of 121% *ad valorem*. South Africa's bound rate on imports of all other distilled spirits, *e.g.*, vodka and liqueurs, is 597% *ad valorem*, whether in bottles or bulk containers.

U.S. distilled spirits are at a competitive disadvantage in the South African market vis-à-vis EU- and UK-origin spirits, such as Scotch Whiskey and Cognac, as a result of EU- and UK-origin spirits entering duty-free under the EU-South Africa Free Trade Agreement and UK-Southern Africa Customs Union and Mozambique (SACUM) Trade Agreement. South Africa represents a very lucrative market for U.S. distilled spirits companies, but this tariff differential limits the ability of U.S. spirits exporters to maintain and grow their market share.

Request: DISCUS urges the U.S. government to secure the removal of South Africa's tariff on U.S. spirits, ensuring that U.S.-origin spirits are not at a competitive disadvantage vis-à-vis EU and UK-origin spirits.

II. Technical Barriers to Trade

Standards

In June 2024, South Africa published draft amendments to the standards of identity in the *Liquor Products Act* for a domestic consultation, which was not notified to the WTO. South Africa confirmed that it would notify the WTO of updated draft revisions following the conclusion of the domestic process. In June 2024, DISCUS submitted a preliminary comment through the domestic consultation, noting that it would supplement them later with additional information when the proposal is notified to the WTO.

On October 22, 2024, South Africa notified the WTO's TBT Committee (G/TBT/N/ZAF261) of its updated draft revised Liquor Products Act for the labeling, standards of identity, and import/export of alcoholic beverages, including distilled spirits. DISCUS submitted a comprehensive comment in December 2024, raising concerns that the proposal could result in arbitrary and unnecessary prohibitions on many internationally traded U.S. distilled spirit products being sold in the market.

Request: DISCUS seeks the U.S. governments support in urging South Africa to; modify the definition of vodka to 1) remove the requirement that vodka "not have any distinctive characteristic, aroma, taste, or color" and 2) provide that it may contain sugar in an amount not to exceed two grams per liter and up to one gram per liter of citric acid; expand the list of approved additives consistent with what is allowed under Codex Alimentarius for use in distilled spirits and the U.S. Food and Drug Administration lists of direct food substances and substances generally recognized as safe; establish a single "Ready-to-Drink" category that does not distinguish between types of beverage alcohol; recognize "Bourbon," "Tennessee Whiskey," and "American Rye Whiskey," as distinctive products of the U.S.; remove the discretion provided to government officials to provide certainty and ensure that manufacturers can use the lot code format consistent with their current business practices; and provide, at a minimum, an 18-month transition period and allow products already in the marketplace to continue to be sold until they are depleted.

III. Trade Statistics and Spirits Market

In 2024, spirits imports from the U.S. decreased 21% from the previous year and were valued at $13.3 million, making it the 25th largest export market for American spirits. American Whiskey accounted for 90% of total spirits exports. (USITC dataweb)

In 2023, South Africa was the 18th largest spirits market in the world in retail sales, reaching $5.9 billion. South Africa's whiskey market reached $1.4 billion, with Scotch Whisky accounting for 66% of the market and Irish Whisky with 13% of the whiskey market. Both Scotch and Irish Whiskey enter the market duty-free. American Whiskeys accounted for just 4% of South Africa's whiskey market. (Euromonitor)

THAILAND

I. Import Policies

Tariffs

Thailand's tariff rates on imported spirits are exceptionally high by international standards and serve as significant barriers to trade. The country's applied rate, which is the same as its WTO-bound rate, is 60% *ad valorem* for all spirits.

Request: DISCUS respectfully requests the U.S. government's support in securing Thailand's commitment to eliminate its tariffs on U.S. spirits imports.

II. Other Barriers

Discriminatory Taxation

Thailand has maintained a discriminatory excise tax system for distilled spirits for many years by imposing lower "applied" specific excise tax rates on domestically-produced "white liquor" and "blended liquor" than on imported spirits. In December 2016, Thailand's Cabinet approved a regulation overhauling the excise tax system establishing new "ceiling" rates, which are 30% *ad valorem* plus 1,000 Thai Baht per liter of pure alcohol for all distilled spirits. The new "applied" rates were subsequently published by the Thai Excise Department and entered into force on September 16, 2017. As noted below, the discrimination in favor of domestic white liquor remains:

Current Rate

Product	*Ad Valorem*	(baht/liter of pure alcohol)
Local white liquor	2%	155
All other distilled spirits	20%	255

These taxes continue to discriminate against imported products and provide protection to domestic producers of local white spirits, in violation of the national treatment provisions of

GATT Article III, paragraph 2.

Request: DISCUS urges the U.S. government to seek Thailand's elimination of its discriminatory excise tax consistent with GATT Art III para. 2.

III. Technical Barriers to Trade

Labeling

In February 2024, Thailand issued a proposed regulation that reintroduced the concept of graphic health warning labels (GHWL), reintroduced a vague and confusing list of prohibited images and messages from being displayed on a label, and introduced a cancer warning statement. It was not notified to the WTO. Thailand originally proposed the GHWL concept for beverage alcohol in 2009 and issued proposals in 2010 and 2014. The proposal requires the nine GHWL and statements to be rotated at one-thousand bottle intervals, introduces pregnancy and drunk driving pictograms, and reintroduces a vague and confusing labeling proposal that was initially proposed in 2014. In March 2024, DISCUS was advised by local industry contacts and the U.S. government that Thailand withdrew the proposal and reported that it would notify a revised proposal to the WTO.

On July 24, 2024, Thailand notified a proposed warning label regulation to the WTO (G/TBT/N/THA/747), which restates what is currently required and will not require companies to make changes to their labels. DISCUS understands that this proposal is not the final draft and is a "placeholder" to provide additional time to work on the proposal while respecting domestic procedural and legislative requirements. As such, we understand Thailand will issue a revised proposal. However, the timeline is unclear.

In September 2024, DISCUS submitted a comment that acknowledged the status of the proposal and urged Thailand, as it continues to develop its revised warning statement regulation, to consider a warning statement that: 1) reflects the current state of scientific research; 2) provides accurate and proportionate wordings and images; 3) addresses health risks generally and the harmful consumption of alcohol; 4) does not include a warning statement rotation requirement; 5) takes into account differently sized bottles; 6) provides for the use of stickers; and 7) provides an 18-month transition period and a stock depletion clause.

Request: We respectfully seek the U.S. government's support to ensure that Thailand notifies the proposed regulation to the WTO's TBT Committee.

IV. Trade Statistics

In 2024, direct U.S. spirits exports to Thailand totaled $3 million, a 28% decrease compared with 2023. American Whiskey exports accounted for 58% of total U.S. spirits exports.

In 2023, Thailand was the 17th largest spirits market in the world in terms of retail sales, reaching $5.9 billion. Thailand's whiskey market reached $534 million, with Scotch Whisky accounting for 94% of the market and American Whiskeys accounted for just 4% of the whiskey market. (Euromonitor)

TÜRKIYE

I. Import Policies

Retaliatory Tariffs

Türkiye has eliminated its most favored nation (MFN) tariff on imported spirits. However, since June 2018, Türkiye has imposed retaliatory tariffs on all U.S. distilled spirits in response to the steel and aluminum tariffs. Originally, Türkiye applied a 70% tariff but increased it to 140% on August 15, 2018. However, on May 21, 2019, Türkiye reduced its tariff back to 70%. Since the imposition of the tariff, American spirits exports to Türkiye declined by nearly 36%, from nearly $17 million to approximately $11 million (2018-2024).

Request: DISCUS urges the U.S. to secure the immediate removal of Türkiye's retaliatory tariffs on U.S. spirits, ensuring that U.S.-origin spirits are not at a competitive disadvantage vis-à-vis EU and UK-origin spirits.

II. Other Barriers

Discriminatory Taxation

On December 24, 2024, Türkiye announced that it would increase its Special Consumption Tax (SCT) on imported distilled spirits by 12.5% and reintroduce its discriminatory tax regime as the increase excludes domestically produced raki. This unexpected increase occurred outside Türkiye's biannual SCT increase in January and July. On January 3, 2025, Türkiye subsequently announced that as part of its regular biannual SCT tax increase, it would increase the SCT rate for all beverage alcohol products by 7.56%. The new rates went into effect on January 3, 2025.

Distilled Spirits Council of the United States
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The new rates, effective January 3, 2025, are below:

Table 3, List A		January, 2025 (scheduled inflation increase)		December, 2024 (irregular increase)		July, 2024 (scheduled inflation increase)	
HS Code	Product Name	Tax Rate (%)	Fixed Tax Amount (TL)	Tax Rate (%)	Fixed Tax Amount (TL)	Tax Rate (%)	Fixed Tax Amount (TL)
22.08	Undenatured ethyl alcohol of an alcoholic strength of < 80%; spirits, liqueurs and other spirituous beverages [except (2208.90.91; 2208.90.99) and (2208.20; 2208.50; 2208.60; 2208.70; 2208.90)]	0	1,536.4300	0	**1,428.4400**	0	1,269.7200
2208.20	Spirits obtained by distilling grape wine or grape marc	0	1,536.4300	0	**1,428.4400**	0	1,269.7200
2208.50	Gin and Geneva	0	1,536.4300	0	**1,428.4400**	0	1,269.7200
2208.60	Vodka (except (2208.60.91.00.00, 2208.60.99.00.00)	0	1,536.4300	0	**1,428.4400**	0	1,269.7200
2208.60.91.00.00	Vodka of an alcoholic strength of > 45,4% vol, in containers holding <= 2 l	0	1,536.4300	0	**1,428.4400**	0	1,269.7200
2208.60.99.00.00	Vodka of an alcoholic strength of > 45,4% vol, in containers holding > 2 l	0	1,536.4300	0	**1,428.4400**	0	1,269.7200
2208.70	Liqueurs and cordials	0	1,536.4300	0	**1,428.4400**	0	1,269.7200
2208.90	Ethyl alcohol of an alcoholic strength of < 80% vol, not denatured; spirits and other spirituous beverages (excl. compound alcoholic preparations of a kind used for the manufacture of beverages, spirits obtained by distilling grape wine or grape marc, whiskies, rum and other spirits obtained by distilling fermented sugar-cane products, gin, geneva, vodka, liqueurs and cordials) (except 2208.90.48.00.11, 2208.90.71.00.11)	0	1,536.4300	0	**1,428.4400**	0	1,269.7200
2208.90.48.00.11	Raki, in containers holding <= 2 liters	0	1,365.7169	0	1.269.7257	0	1.269.7257
2208.90.71.00.11	Raki, in containers holding > 2 liters	0	1,365.7169	0	1.269.7257	0	1.269.7257

For several years, Türkiye maintained a discriminatory SCT on imported distilled spirits (such as whiskey and rum) and a lower rate for domestically produced raki. In April 2009, Türkiye revised the structure of its discriminatory tax by eliminating the ad valorem tax and lowering the minimum specific rates for all categories of spirits. In June 2009, the EU announced that Türkiye agreed to harmonize the tax rates for spirits by 2018. In May 2018, Türkiye announced that it harmonized its tax rates for all spirits.

<u>Tax Stamps and Payment</u>

In 2020, Türkiye's Tobacco and Alcohol Market Regulatory Authority (TADB), which is a section under the Ministry of Agriculture, issued a circular requiring imported distilled spirits to pay its excise tax in advance to receive the necessary tax strip stamps, which are applied to the bottles by hand. Under the circular, importers are required to predict sales three months out and pay the excise tax. Domestic producers are required to pay the excise tax within thirty days of the sale.

Accordingly, importers must carry the financial burden of paying the tax for nearly three months of sales before they receive the strip stamps. To the degree that the difference in administration places a greater burden on importers than on the domestic industry, DISCUS is concerned that there may be a potential GATT Art. III violation.

Request: DISCUS requests that the U.S. government urge Türkiye to remove the discriminatory aspect of its excise tax for spirits.

III. Trade Statistics and Spirits Market

In 2024, U.S. spirits exports to Türkiye totaled nearly $10.9 million, reflecting a 24% decrease from 2023. American Whiskey accounted for nearly 90% of total U.S. spirits exports (USITC Dataweb).

In 2023, Türkiye ranked as the 20th largest spirits market globally in terms of retail sales, with a market value of $5.3 billion. Türkiye's whiskey market reached $2 billion, with Scotch Whisky comprising 85% of the market and American Whiskeys accounting for 15% (Euromonitor)

VIETNAM

I. Import Policies

Tariffs

As part of its WTO accession commitments, Vietnam agreed to bind its tariffs on distilled spirits at 65% *ad valorem* as of the date of accession and to reduce its tariff to 45% *ad valorem* by 2013. Although the U.S. spirits industry was generally pleased with the overall terms of Vietnam's WTO accession package, its fully phased-in spirits tariffs are very high by international standards.

U.S. distilled spirits are at a competitive disadvantage in the Vietnamese market vis-à-vis EU- and UK-origin spirits, such as Blended Scotch Whiskey and Cognac. As a result, EU- and UK-origin spirits will soon enter duty-free under the EU–Vietnam Free Trade Agreement and the UK-Vietnam Trade Agreement. Vietnam and the UK are also both members of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).
Request: DISCUS respectfully requests that the U.S. government secure Vietnam's commitment to eliminate its tariff on American spirits and to apply the same tariff treatment that currently applies to EU- and UK-origin spirits.

II. Other Barriers

Taxation

Vietnam currently applies a 65% *ad valorem* Special Consumption Tax (SCT) on distilled spirits. In February 2023, Vietnam's Ministry of Finance (MoF) proposed revising the SCT. In July 2023, Vietnam's Office of the Government (OOG) issued Directive 115, ordering the MoF to shift the SCT review to the normal legislative timetable and to consider a hybrid tax model. In January 2024, Vietnam's Deputy Prime Minister requested that the OOG circulate an updated report on the SCT and solicit input from other ministers on the implementation and specifics of a hybrid tax and the timeline for its approval.

On June 13, 2024, Vietnam's MoF published its draft amended SCT law for public consultation. Vietnam did not take into account the spirits sector's comments in support of a hybrid tax, and the revised proposal retains the *ad valorem* tax structure and proposes to increase the rates by 5% annually between 2026 and 2030. The deadline for comments was August 13, 2024.

The proposal includes two options for the SCT. **Under "Option 1", the SCT rate will reach 90% in 2030. Under "Option 2", the SCT rate will reach 100% by 2030.** Additional information is below:

Changes in the ad valorem SCT Rates for Alcoholic Beverages

Product	Current SCT rate (%)	Proposed SCT rate (%)	
		Option 1	Option 2
Wine & spirits 20% ABV or higher; Beer	65	From 2026: 70 From 2027: 75 From 2028: 80 From 2029: 85 From 2030: 90	From 2026: 80 From 2027: 85 From 2028: 90 From 2029: 95 From 2030: 100
Wine & spirits lower than 20% ABV	35	From 2026: 40 From 2027: 45 From 2028: 50 From 2029: 55 From 2030: 60	From 2026: 50 From 2027: 55 From 2028: 60 From 2029: 65 From 2030: 70

DISCUS submitted a letter in July 2024 urging Vietnam to delay implementation of the SCT until 2027, consult with stakeholders before considering any additional stakeholders, and adopt a roadmap to adopt a hybrid excise tax (*ad valorem* + specific). DISCUS submitted a follow-up letter in September 2024 reiterating many of the same points.

On September 19, 2024, the Government submitted the draft to the National Assembly's Standing Committee for review. The first discussion at the National Assembly will occur during a Plenary Session between October 21, 2024, and December 3, 2024. It is unclear when a revised SCT will go into effect, but industry contacts advise that it will likely be in 2026.

Request: DISCUS respectfully seeks the U.S. government's support to urge Vietnam to delay implementation of the SCT until 2027, consult with stakeholders before considering any additional stakeholders, and adopt a roadmap to adopt a hybrid excise tax (*ad valorem* + specific)

III. Trade Statistics and Spirits Market

In 2024, direct spirits exports from the U.S. increased 22% to $1.2 million. American Whiskey accounted for just 11% of total American spirits exports. (USITC Dataweb)
In 2023, retail sales of distilled spirits in Vietnam reached $816 million. Vietnam's whiskey market reached $221 million, with Scotch Whisky accounting for 90% of the market, followed by Japanese whiskey with 9% of the market, and American Whiskeys accounted for less than 1% of the whiskey market. (Euromonitor)

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