

FOR THE RECORD

**DISTILLED
SPIRITS
COUNCIL
OF THE
UNITED
STATES**

**SUBCOMMITTEE ON TRADE
COMMITTEE ON WAYS AND MEANS**

**HEARING ON UNITED STATES NEGOTIATING OBJECTIVES
FOR THE WTO SEATTLE MINISTERIAL MEETING**

August 5, 1999

**STATEMENT OF THE DISTILLED SPIRITS COUNCIL
OF THE UNITED STATES**

The following statement is submitted on behalf of the Distilled Spirits Council of the United States, Inc. (DISCUS), for inclusion in the printed record of the hearing on United States Negotiating Objectives for the WTO Seattle Ministerial Meeting. DISCUS is the national trade association representing U.S. producers, marketers and exporters of distilled spirits.

I. Overview

DISCUS enthusiastically supports efforts within the WTO to further liberalize international trade and to strengthen the multilateral trading system. The U.S. distilled spirits industry has greatly benefitted from the tariff elimination commitments secured during the Uruguay Round negotiations and in subsequent negotiations under the WTO's auspices. In addition, on behalf of our industry, the United States has utilized the WTO's dispute settlement mechanism to successfully challenge discriminatory liquor tax regimes maintained by Japan and Korea. The elimination of Japan's discriminatory treatment of imported spirits has led to an increase of nearly 25 percent in U.S. spirits exports to Japan, while saving U.S. companies nearly \$100 million in taxes and tariffs annually. Discussions with Korea on its plans for complying with the recent WTO ruling are now underway, and we look forward to competing on an equal tax basis in this important market in the near future.

The improved market access conditions secured under the WTO have been a major factor in the doubling of U.S. exports of distilled spirits since 1990. In 1998, exports of U.S. distilled spirits grew to \$528 million, a record high. They now account for over 25 percent of our members' total sales, compared to 11 percent at the beginning of the decade. More importantly, for U.S. distilled spirits companies, the continued growth of exports in the years ahead holds the key to their commercial well-being.

While the recent growth in U.S. distilled spirits exports has been significant, the majority of our trade is destined for developed and relatively mature markets, such as Europe and Japan, where tariffs already are low and will soon be eliminated. Developing countries, particularly in Asia and Latin America, offer tremendous market potential for U.S. distilled spirits, but most of them have resisted meaningful liberalization of their relatively high tariffs and other market access barriers to imports of distilled spirits. The new round of trade negotiations to be launched at the WTO Ministerial Meeting in Seattle in November offer an excellent and timely opportunity to tackle these barriers and create new export opportunities for U.S. distilled spirits companies.



II. Priority Objectives for the New Trade Round

After careful review and consideration, DISCUS has identified the following six areas as its priority objectives for the upcoming negotiations:

A. Tariffs

The most pervasive barrier to U.S. distilled spirits exports continues to be high tariffs. Numerous developing country members of the WTO maintain tariffs on distilled spirits in the double digit range, and some maintain prohibitive tariffs. India, for example, assesses an exorbitant tariff of 230 percent, while Indonesia's tariff is 160 percent and Poland's tariff is 105 percent. Several regional groups within Latin America and the Caribbean also maintain high common tariffs which significantly inhibit the ability of imported distilled spirits to compete with national products.

In the Uruguay Round negotiations, other than the "Quad" countries, only twelve countries agreed to tariff reduction commitments which resulted in actual reductions in the tariffs they imposed on imported distilled spirits. In all other instances, the concessions agreed to by Uruguay Round participants, when fully implemented in 2004, will continue to exceed current applied rates. Thus, while the negotiations were enormously successful in eliminating tariffs maintained by the "Quad" countries, U.S. exporters of distilled spirits were not able to secure improved terms of access to many other important markets.

The new negotiations should give priority attention to further reducing and where possible eliminating tariffs on distilled spirits, particularly with respect to those developing countries maintaining tariff peaks in the sector. The application of a tariff cutting formula would appear to be the most promising approach for securing the elimination of these high tariffs. It also is extremely important that the tariff commitments agreed to in the negotiations pertain to applied as well as bound rates. Ideally, the negotiations should be based on applied rates. However, if this does not prove possible, the formula chosen should be designed to require reductions in applied rates proportionate to those agreed to for bound rates.

B. Nontariff Measures

U.S. distilled spirits products are subject to thorough testing and control procedures in the United States, yet many WTO members continue to maintain redundant testing and certification requirements. A number of WTO members also continue to impose restrictive import licensing, registration and state trading requirements in the distilled spirits sector. We urge the United States to place a high priority on securing the elimination of these unwarranted nontariff barriers in the upcoming negotiations.

C. Services Barriers to Trade

While U.S. distilled spirits companies may export their products to most countries, a number of WTO members limit the ability of U.S. companies to import, distribute and advertise their own products within their markets. These restrictions limit the ability of U.S. distilled spirits companies to build their brands in these markets and to compete effectively with national products. We recommend that the United States use the upcoming services market access negotiations to secure appropriate commitments providing for the elimination of restrictions on U.S. companies' access to distribution and advertising services in these markets.

D. Trade Facilitation

The upcoming negotiations also provide an excellent opportunity to liberalize and, where possible, eliminate procedural and regulatory obstacles to the movement of distilled spirits in international trade, particularly in the area of customs procedures. Trade facilitation measures which would benefit U.S. exporters of distilled spirits include the simplification and harmonization of customs procedures, the elimination of excessive and often redundant certification and documentation requirements, and the provision of enhanced regulatory transparency.

E. Intellectual Property

U.S. distilled spirits companies are interested in securing improvements to the protection provided for geographical indications and trademarks under the WTO TRIPs Agreement in order to ensure the integrity of the content and presentation of their products in foreign markets. Accordingly, we recommend that the United States utilize the mandated review of the TRIPs Agreement to clarify and strengthen the protection provided for geographical indications for distilled spirits and to expand the protection for trademarks provided under the Agreement to include trade dress and other distinctive forms of packaging.

F. Dispute Settlement

The U.S. distilled spirits industry's experience with the WTO dispute settlement mechanism has been extremely positive. The system has produced clear cut rulings against the discriminatory liquor tax practices maintained by Japan and Korea and a third, equally strong, ruling against Chile is expected to be announced shortly. These rulings have provided the basis for securing the elimination of these longstanding barriers to U.S. distilled spirits exports. Nevertheless, despite this very positive experience, DISCUS believes that the Dispute Settlement Understanding (DSU) can and should be improved upon. In particular, we recommend that the United States seek to strengthen those provisions of the Understanding pertaining to compliance with panel rulings and recourse to retaliation, in order to ensure that the WTO continues to provide an effective means for enforcing the market access commitments secured in the negotiations.

III. Parameters for the Negotiations

A. Scope

DISCUS's priority objectives, as outlined above, fall within the scope of the additional negotiations mandated by the various Uruguay Round agreements. Accordingly, at the Seattle Ministerial meeting, we would urge the United States to take whatever steps are necessary to ensure that these negotiations are initiated, as previously agreed, by no later than January 1, 2000. The United States should steadfastly oppose any and all efforts to introduce procedural obstacles to the on-time launch of these mandated negotiations.

We understand that it will be necessary to add additional subjects to the agenda for the negotiations. Adding a limited number of additional subjects is likely to increase the prospects for success, by establishing a broader basis for the political tradeoffs necessary to allow the negotiations to produce a package of agreements acceptable to all participants. Negotiations on market access barriers to manufactured goods would be, in our view, the most appropriate subject to be added. However, adding numerous additional subjects, particularly controversial ones such as trade and the environment, workers rights, and competition policy, is likely to complicate and protract the negotiating process. We strongly recommend that the United States work with other like minded countries to limit the number of additional subjects added to the agenda to only those which are truly ripe for negotiation and absolutely necessary to a successful outcome.

B. Time Frame

In order to maximize the benefits for U.S. exporters of enhanced access to foreign markets and to maintain the credibility of the WTO itself, it is absolutely essential that the negotiations are completed, and the results fully implemented, within the shortest possible time period. We urge the United States to secure a binding commitment at the Seattle Ministerial to complete the negotiations within three years -- *i.e.*, by January 1, 2003 -- and to ratify and fully implement the results within no more than five years thereafter. Of all the decisions to be taken at Seattle, this is the most important one. We recognize that multilateral trade negotiations involving more than 130 countries will be complicated and difficult. However, without a tight and enforceable deadline, it will be nearly impossible to bring the negotiations to a successful conclusion within a time frame in which the results will still be relevant to U.S. exporters.

C. Participation

We recall that countries in the process of acceding to the GATT were allowed to participate in the Uruguay Round negotiations. Many of these countries offered only minimal concessions, and some have not yet completed the accession process nor fully adhered to the agreements reached in the Round. Yet all of these countries received the benefits of the market access concessions agreed to by WTO member countries in these negotiations.

To avoid this problem of "free riders," DISCUS believes that participation in the upcoming negotiations should be limited to only those countries which are members of the WTO as of January 1, 2000. Countries which are in the process of acceding to the WTO, but have not yet completed their accession negotiations, should not be permitted to participate until they have done so. Such a policy has and will continue to create an added incentive for the various acceding countries to complete the accession process this year. It also would ensure that the acceding countries are required to make market access commitments in the new round of negotiations, in addition to those agreed to as part of their terms of accession.

IV. Negotiating Authority

Although not directly related to the scope and agenda for the Ministerial Conference, the mere fact that the United States will host and chair the Conference creates an imperative and offers an excellent opportunity for the Administration and Congress to forge a new political consensus in support of further trade liberalization within the WTO framework. In order to shape the preparations for the Ministerial Conference and influence the decisions taken at the Conference, it is simply essential that the United States be fully authorized to participate in the negotiations and the work program which emerges from the Ministerial meeting. Without such authority, it will be extremely difficult for the United States to ensure that the decisions taken at the Ministerial Conference fully address the interests of U.S. exporters.

Accordingly, we would urge the Congress to work with the Administration and provide the leadership required to enact "fast track" legislation or, in the short term, to issue a clear and unambiguous mandate that will demonstrate to the WTO membership that the United States Congress fully supports the active participation of the United States in the new round of negotiations within the WTO. Such action by the Congress is essential to prevent other WTO members from using the absence of "fast track" legislation as an excuse to block efforts within the WTO to further trade liberalization. DISCUS has strongly supported renewal of "fast track" negotiating authority and approval procedures in the past and we stand ready to work with the Congress once again to achieve this goal as soon as possible.

V. Summary

DISCUS strongly supports the launch of new multilateral trade negotiations within the WTO. Such negotiations offer an excellent opportunity to further open markets, particularly those of developing countries, for U.S. distilled spirits exports. Our priority objectives for these negotiations are:

- o reduction/elimination of tariffs on both a bound and applied basis;
- o liberalization of non-tariff trade barriers;
- o liberalization of restrictions on access to services, including distribution and advertising;

- o enhanced measures to facilitate trade in distilled spirits;
- o stronger protection of geographical indications and trademarks; and
- o a strengthened WTO dispute settlement mechanism.

These negotiating objectives can be pursued within the context of the mandated negotiations provided for under the Uruguay Round agreements. We support the inclusion of a limited number of additional subjects in order to ensure that the negotiations produce a package of agreements acceptable to all participants. However, the various additional subjects included should not undermine the more important goal of completing the negotiations and implementing the results within the shortest possible time frame. Participation in the negotiations should be limited to WTO members in order to provide an added incentive for acceding countries to complete the accession process quickly, and to ensure that all participants in the negotiations make appropriate market opening commitments.

In addition, we would urge the Congress to mount a renewed effort, together with the Administration, to enact "fast track" legislation or, in the short term, to develop an alternative mandate. Such action is essential to prevent other WTO members from using the absence of "fast track" as an excuse to block efforts towards further trade liberalization within the WTO.