October 27, 2016

Mr. Edward Gresser, Chair
Trade Policy Staff Committee
Office of the United States Trade Representative
Submitted via regulations.gov

Re: Comments Regarding Foreign Trade Barriers to U.S. Exports for 2017 Reporting – Federal Register Notice USTR-2016-0007

Dear Mr. Gresser:

Wine Institute submits the following comments on behalf of the California wine industry in response to the Federal Register Notice USTR-2016-007 requesting public comments on foreign trade barriers affecting the export of U.S. wine. Wine Institute is the premier organization representing California wineries in the United States (U.S.) and around the world. With 1,000 winery and affiliated business members, the organization initiates and advocates public policy that enhances the ability to responsibly produce, promote and enjoy wine. Wine Institute works to bolster the economic and environmental contributions of California's signature agricultural industry by encouraging sustainable winegrowing and winemaking practices. California represents more than 85 percent of U.S. wine production and 90 percent of U.S. wine exports.

U.S. winemakers face a myriad of trade barriers upon export. While the U.S. government, with Wine Institute's support, has successfully eliminated many trade barriers, numerous obstacles remain and new challenges continuously arise that impede growth and threaten existing markets. At issue is how to keep U.S. wines price-competitive when faced with preferential tariffs, taxes and subsidies given to non-U.S. wines and burdensome non-tariff barriers such as unreasonable government standards, testing and certification requirements.

This submission reviews key trade barriers that U.S. wine exporters face in foreign markets. It is by no means exclusive. Many of the issues, such as label requirements not based on science, wine additive approvals, and duplicative or unnecessary export certificates are common in many export markets. Our comments are partly organized by country, where possible, since similar issues such as export certification occur in various markets. The summaries provide a description of each barrier and an estimate of the potential trade increase if the barrier is eliminated. The potential trade increase estimates are based on current and anticipated exports to the particular market.

We appreciate the ongoing leadership and diligent efforts of the U.S. Congress, U.S. Trade Representative, Alcohol and Tobacco Tax and Trade Bureau (TTB), Department of Commerce, Environmental Protection Agency, Food and Drug Administration, Foreign Agricultural Service, Patent and Trademark Office, Department of State and all other U.S. officials involved in reducing the numerous barriers to U.S. wine exports. Thank you for this opportunity to provide comments on the above-referenced Federal Register Notice. Please contact us if you have any questions.

Respectfully Submitted,

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NATIONAL TRADE ESTIMATE REPORT ON FOREIGN TRADE BARRIERS

WINE INSTITUTE SUBMISSION

CANADA

Category #1, Import Policies: Licensing of wine retail outlets and payment schemes in the Provinces of British Columbia, Nova Scotia, Ontario and Quebec
Potential Increase in U.S. Exports: Over $500 million
Explanation:

Importation, distribution and sales for alcoholic beverages in Canada operate under a system of provincial government-controlled liquor board monopolies (LCBs). The operation of these monopolies and their restrictions on U.S. exports differ from province to province. These LCBs frequently provide direct and indirect subsidies to Canadian producers, including licenses that favor local products. Wine exported to Canada faces additional trade barriers including redundant testing and certification requirements, rebate subsidy programs that favor Canadian wines, discriminatory consignment sale procedures, and warehousing and delivery charges. Each of these barriers reduces the competitiveness of U.S. wine with in Canada. This submission focuses on recent developments in British Columbia, Nova Scotia, Ontario and Quebec, where the provincial governments have established licensing and pricing programs that favor local wines over imported products.

British Columbia (B.C.): Provincial regulations dramatically favor B.C. wineries which, unlike those located outside the province, can:

- B.C. wineries are permitted to "direct deliver" wine to customers (e.g., individuals, private stores, restaurants, etc.) straight from the winery;
- Provide terms to restaurants and retailers (all other wine comes through the B.C. Liquor Distribution Branch (BCLDB) and must be paid for upfront);
- Provide discounts and quantity discounts (this is not allowed through the BCLDB system);
- Provide next day delivery via their own trucks (a "spec" item could take 10 days to be delivered); and
- Deliver less than a case (all other wines need to be purchased in full cases).
- B.C. wine that is "direct delivered" does not go through the BCLDB system and no LDB fees or markups are applied;
- "Cellared in Canada" wines (which are imported wines bottled in Canada) can be delivered using the B.C. wine distribution system even though they actually are not B.C. wines; and

- B.C.'s regulatory authority for wine appellations, B.C. Vintners Quality Alliance (VQA), Support Program or QEP (Quality Enhancement Program) provides rebates for B.C. wines that are sold through government B.C. Liquor Stores.

Most problematic is the province's 100% B.C. wine on grocery stores program. On April 1, 2015, B.C. implemented a blatantly discriminatory plan to relocate existing and new 100% B.C. wine licenses to grocery store shelves, in violation of Canada's international treaty obligations. As has been repeatedly pointed out to B.C. by the U.S. and other governments, B.C. efforts to modernize retail distribution channels and promote the sale of B.C. wines can reasonably be achieved by modifying the initiative so that all wines, both local and imported, can equally access grocery store shelves.

On April 1, 2016, British Columbia's government celebrated the one-year anniversary of its program, touting:

- "There are now seven grocery stores selling wine right off the shelf in B.C. – with another seven expected by July (2016).
- B.C. is auctioning off six initial opportunities to bid on the right to apply for Special Wine Store Licenses starting mid-April, which means more exposure for B.C. wine on grocery store shelves.
- Since the opening of the first grocery store April 1, 2015, more than 50,000 bottles of B.C. VQA wine have been sold (over CAD 3 million [USD 2.3 million] in retail sales)." [1]

On April 29, 2016, the U.S. and six others governments filed formal objections with the B.C. Premier challenging the province's grocery store scheme. However, imported wines are still not allowed to be sold in B.C. grocery stores and grocery store expansion continues.

Nova Scotia: Nova Scotia Liquor Corporation (NSLC) implemented a non-transparent "variable markup" or "negotiated margins" pricing system which creates an incentive for the NSLC to select products based solely on price and disregard product quality and consumer preferences. Already, it is negatively affecting sales for our members. Historically, the NSLC has applied these mark-ups in a transparent, objective and predictable manner, which provided certainty to the NSLC's suppliers and encouraged competition in product quality and consumer value. The new arbitrary and discretionary mark-up policy is inconsistent with what Canada indicated in its 2012 World Trade Organization (WTO) State Trading Enterprise notification as the way consumer prices are constructed.[2] It is also inconsistent with other provincial liquor boards and with Canada's international trade commitments.

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1 British Columbia Wine Institute. "BC Wine Industry Celebrates One Year of BC VQA Wine On Grocery Store Shelves." April 1, 2016. http://www.winebc.org/news/view/143 Accessed October 20, 2016.

2 Government of Canada Notification to the World Trade Organization Working Party on State Trading Enterprises. "The retail sales price of the imported product is a function of its landed cost (invoice price, federal customs and excise duties and taxes, and freight), to which are added the applicable provincial mark-up and federal and provincial sales taxes. The mark-up varies by product type and by jurisdiction." (G/STR/N/14/CAN, page 22) July 8, 2012. http://bit.ly/2eVRxxE Accessed October 20, 2016.

Ontario: The Liquor Control Board of Ontario (LCBO) provides support to the Ontario wine industry in excess of USD 32 million/year. The LCBO often waives retail sales markups and freight costs for local producers, offers domestic producers exclusive merchandising and marketing programs, and gives store support such as preferential shelf space.

Most concerning are recent developments with respect to grocery store channels. On Feb. 18, 2016, the Ontario Premier's Advisory Council (PAC) on Government Assets announced its recommendations to modernize the province's wine retail distribution system.[3] Highlights include:

- Up to 150 Ontario Wine Retail Store (WRS) "kiosks" which are adjacent to or within the space of grocery stores can be relocated to more favorable space within these grocery stores. These stores will also sell Ontario VQA wines from other producers but not imported wines.
- Restricted Licenses – 35 new VQA licenses will be issued to grocery stores to sell only Ontario VQA wines (not including VQA wines produced by companies operating WRS). After 3 years, these licenses will be converted to universal licenses allowing for the sale of imports.
- Unrestricted Licenses – 35 new "universal" licenses will be issued to grocery stores to sell local and imported wines. An undetermined percentage of shelf space will be allocated to "small" wineries.

Unfortunately, on June 24, 2016, the PAC issued revised recommendations[4] which are significantly more problematic for imported wines than the PAC's Feb. 18 recommendations:

- Restricted Licenses – The PAC's June 24th announcement eliminated the requirement that only VQA wines can be sold in these restricted license stores. Now, all wines must come from small wineries (< 200,000 L), mid-size wineries (< 4.5 million L) small wine-producing countries (< 150 million L) or small appellation of origin systems (< 50 million L). Although the proposal would appear to allow imported wines to be sold in the restricted outlets, the reality is primarily domestic wines would qualify under the stated criteria. There are very few imported brands currently listed by the LCBO that would meet the criteria.
- "Unrestricted" Licenses – Ontario will commit a certain percentage of shelf space, yet to be announced, to "small" brands, 50% of the wine shelf space will be dedicated to single origin wines from small wineries, small producing countries or small appellation of origin systems. Again, these criteria will primarily favor small, domestic wineries. The majority of small wineries currently listed in the LCBO are from Ontario. This is counter to previous PAC assurances that the unrestricted licenses would be mostly available to imports without any size restrictions.

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3 Government of Ontario. "Striking the Right Balance: Modernizing Wine and Spirits Retailing and Distribution in Ontario." http://bit.ly/2el4h0n Accessed October 20, 2016.

4 Government of Ontario. "Ontario's Regulation of Sale of Wine in Grocery Stores." June 24, 2016. http://bit.ly/2aWzUsp Accessed October 20, 2016.

These new grocery store opportunities, which are not available to imported wines, providing substantially enhanced new access to grocery store consumers for Ontario wine products violate Canada's commitments under the World Trade Organization, specifically its national treatment obligations under Article III:4 of the General Agreement on Tariffs and Trade (1994).

In addition to Ontario's grocery store changes, in June 2016, the LCBO announced that it would implement a “flexible mark-up" program, which raised concerns in terms of compliance with Canada's international commitments. The pricing model results in a higher mark-up for the “winning” tendered products than the LCBO’s posted rate, and higher than that imposed on directly competing and substitutable products, in addition to lacking the requisite level of transparency required under WTO rules. While variable mark-up schemes may already be in place to some extent in Nova Scotia and British Columbia, the LCBO program represents a serious threat to U.S. wine exports. On June 20, 2016, Wine Institute and other international industry groups sent a letter to the Ontario Premier registering opposition to the Liquor Control Board of Ontario's new “flexible mark-up” program. On July 11, 2016, LCBO wrote to the trade announcing an indefinite extension to the timeline to submit supplier quotes under the agency’s flexible mark-up initiative. However, the program has not been canceled and could be implemented at some point in the future.

Quebec: In May 2016, the Quebec National Assembly passed legislation, Bill 88, that will allow small wine producers making wines from locally grown grapes and other fruits to sell their wine directly to the convenience and grocery stores. The proportion of raw materials composing the wine made by small-scale production permit holders must be from at least 50% of the permit holder’s own grapes and no more than 15% of grapes coming from outside Quebec. After 2022, the permit holder must make the wine from grapes that are 100% Quebec grown, and of which at least 50% are from the permit holder’s own grapes.

In practice, these requirements make it impossible for imported wines to benefit from the same advantages as locally produced wines, namely an additional sales channel through the grocery stores and a tax break as this channel is free of mark-ups. The bill exempts qualifying Quebec wineries from the following mark-ups, regardless of whether the product is sold to the SAQ or private grocery stores:

- A tiered ad valorem mark-up of 40-118%;
- A per case volume fee of CAD 29.01 (USD 21.76);
- “Frais de service” (cost to use SAQ warehousing, distribution; for local wine with a base price of CAD 40/case [USD 30] = CAD 1.92/case [USD 1.44];.
- Quebec specific tax on alcohol of CAD 1.40 (USD 1.05) per liter except if eligible for the rate reduction identified for smaller wine producers.

In addition, Quebec is implementing a non-transparent "variable markup" pricing system which creates an incentive to select products based solely on price and disregard product quality and consumer preferences. Historically, Quebec has applied these mark-ups in a transparent, objective and predictable manner, which provided certainty to suppliers and encouraged competition in product quality and consumer value. As with Nova Scotia and Ontario, Quebec's new arbitrary and discretionary mark-up policy is inconsistent with what Canada indicated in its 2012 World Trade Organization (WTO) State Trading Enterprise notification as the way consumer prices are constructed.[5] It is also inconsistent with other provincial liquor boards and with Canada's international trade commitments.

Wine exported to Canada faces additional trade barriers including redundant testing and certification requirements, domestic rebate subsidy programs, discriminatory consignment sales and warehousing and delivery charges. Each of these barriers significantly reduce the competitiveness of U.S. wine within Canada.

CHINA

Category #9, Sanitary and Phytosanitary Barriers: Winemaking Standards
Potential Increase in U.S. Exports: $50-100 million
Explanation:

In 2013, China implemented additive regulations that critically restrict the import of U.S. wine. The regulations omit dozens of commonly used and internationally accepted winemaking additives and processing aids. During the development of the new regulations, the U.S. industry supplied several technical comments as to why those substances should be allowed. The Chinese government advised industry to file petitions to seek their approval. The omission causes a significant concern for importing U.S. wine to China. The U.S., European and Australian wine industries are petitioning the Ministry of Health to add certain additives and processing aids to the approved list, and we appreciate the support of the U.S. government during the approval process.

EUROPEAN UNION (EU)

Categories #4 and 10, Intellectual Property and Technical Barriers to Trade: Geographical Indications, Restrictions on Food and Plant Names
Potential Increase in U.S. Exports: $100-500 million
Explanation:

5 "The retail sales price of the imported product is a function of its landed cost (invoice price, federal customs and excise duties and taxes, and freight), to which are added the applicable provincial mark-up and federal and provincial sales taxes. The mark-up varies by product type and by jurisdiction." G/STR/N/14/CAN, 6 July 2012, page 22.

Wine Institute has long advocated for the importance of place names and accurate representation of a wine's origin. The U.S. has one of the most rigorous regulatory systems in the world for protecting place names for wine, assuring high standards for the U.S. market. The European Union (EU) continues to implement and advocate for policies that appropriate common food names for the use of their own agricultural producers. By doing so, the government provides economic advantages for its winemakers and wider agricultural sector by asserting exclusive ownership of common, internationally-used, descriptors. Wine Institute supports the U.S. government's initiatives and positions to advocate for common names in Transatlantic Trade & Investment Partnership (T-TIP) negotiations and elsewhere. We request that the U.S. government reject the misappropriation of common terms by the EU. The following list provides examples of recent E.U. initiatives, and some of which are explained in detail below:

- The E.U. prevents U.S. winemakers from using traditional terms such as "chateau;"
- The E.U. seeks to renege on its commitments in the 2006 EU-US Wine Agreement on semi-generic terms such "California Port;"
- The E.U. claims terms such as "special reserve," "mountain product," "product of island farming," and "Prosecco" (an internationally recognized grape varietal) for its exclusive use;
- The E.U. allows wine regions to move boundary lines to meet market demand (aka "equilibrium");
- The E.U. unilaterally converts accepted grape names such as "Prosecco," "Montepulciano" and "Sangiovese" into Geographical Indications (GI);
- The E.U. requires third countries in its Free Trade Agreements to enforce EU traditional term rules against U.S. wine exporters;
- The E.U. imposes its GI system globally in the Internet Corporation for Assigned Names and Numbers (ICANN), International Organization of Vine and Wine (OIV), Codex Alimentarius, and World Intellectual Property Organization (WIPO);
- The E.U. demands that TRIPs include a *mandatory* GI registry; and
- The E.U. attempts to make GI violations a crime under the Anti-Counterfeiting Trade Agreement (ACTA).

Category #10, Technical Barriers to Trade: Restrictions on Common Wine Names
Potential Increase in U.S. Exports: $100-500 million
Explanation:

The EU continues to prohibit the use of certain common descriptive terms on U.S. imported wine. While the EU claims that the terms are distinctive “European” expressions, the terms are not tied to a specific place; they are common nouns and adjectives associated with winemaking practices. The terms such as "tawny," "ruby," "chateau," and "clos" may only be used in the European market if approved by the EU, despite the fact that they were long used by U.S. winemakers in the EU without issue before 2006. More than six years have passed since the U.S. wine industry applied for approval of their use; to date, the EU has only approved two of the thirteen applications. Winemakers from at least seven other non-EU countries have been approved to use terms such as "chateau" in the EU. Moreover, the use of these terms in the European market and elsewhere has resulted in no consumer confusion. There is no health or safety issue, nor is there any consumer risk in using wine descriptive terms that have always been and continue to be in the public domain.

Category #10, Technical Barriers to Trade: Technical Barriers to Trade: Organic Wine
Potential Increase in U.S. Exports: $5-25 million
Explanation:

On August 1, 2012, the EU implemented organic standards for wine that restrict the import of U.S. organic wine and wine "made with organic grapes" that had previously been allowed in the EU. The standards include winemaking mechanical practices not related to organic production that are approved for use in the EU and in the USA as a result of the U.S.-EU bilateral wine Agreement. In addition, the EU removed the established category of “wine made with organic grapes,” thereby preventing the export of these internationally accepted wine brands that were previously allowed for sale in the EU market. Despite discussions with the U.S. Government and the U.S. wine industry, the European Union will not restore access of these products to its market.

JAPAN

Category #9, Sanitary and Phytosanitary Barriers: Winemaking Standards
Potential Increase in U.S. Exports: $5-25 million
Explanation:

Japan's approval process is unreasonably slow to adopt internationally accepted standards for wine additives and processing aids. For example, it takes years for the regulatory bodies in Japan to even "receive" applications for the use of additives and processing aids in wine even though there are acceptable levels for the same substance for other food products in that country. Currently, there are applications concerning internationally accepted wine additives that have been in the Japanese approval process since 2004. Wine Institute requests that the U.S. government continue to address the unreasonably slow approval process in bilateral meetings with Japan.

NIGERIA

Category #4, Intellectual Property Protection: Trademark "Hijacking"
Potential Increase in U.S. Exports: $5-25 million
Explanation:

Trademark fraud in Nigeria continues to be a concern. In several cases, the U.S. Department of Commerce has attempted to resolve trademark issues in Nigeria. However, even with the assistance of the U.S. government, cases in Nigeria can take years to resolve and at considerable expense to the U.S. wine producer.

There are several pending cases. In 2009, a Wine Institute member filed oppositions to applications by their distributor to register several wines and wine products. The distributor has not responded to the objections and has not appeared at scheduled hearings at the Trademark Office in Abuja. The U.S. winemaker is still awaiting a decision regarding the objection. In another instance, in 2007, the same winemaker filed an opposition to an application by another distributor to register a separate brand. As in the first instance, the distributor did not respond to the objection and the winery filed a request for default in the Trademark Office in Abuja. The decision is still pending more than seven years later. While the company expects to eventually be successful, it has taken many years at significant expense to get this far and the perpetrators still have not defended their attempts to "highjack" trademark rights. Cases can take over 15 years to resolve due to delays in the Court system. It is not uncommon for an adversary to show up unprepared and be granted an adjournment by the Court. In any event, the failure of the Courts and the Trademark Office to resolve disputes on a timely basis can impact National Agency for Food and Drug Administration Control (NAFDAC) registrations, which are necessary for exporters to market foods and beverages in Nigeria. We support continued U.S. efforts to combat trademark fraud in Nigeria.

SOUTH KOREA

Category #10, Technical Barriers to Trade: Warning Labels
Potential Increase in U.S. Exports: $5-25 million
Explanation:

South Korea did not follow its WTO and KORUS obligations when it implemented a change to a warning statement on labels of alcoholic beverages before the end of the WTO comment period. To date, it is uncertain whether South Korea is willing to consider comments from international stakeholders including those submitted by Wine Institute. Article 2.9.2 of the TBT Agreement states that countries should notify affected parties of regulatory changes at an early and appropriate stage, when amendments can still be introduced and comments taken into account. Article 9.6.3 of KORUS requires a similar obligation. In addition, South Korea now requires alcoholic beverages labels to state that “alcohol is a carcinogen.” Such a statement is not based on science and it provides inaccurate information which will most certainly will confuse consumers. South Korea must be required to present the scientific information on which this requirement is based.

VIETNAM

Category #4, Intellectual Property Protection: Geographical Indication Registry
Potential Increase in U.S. Exports: $5-25 million
Explanation:

As one of the Trans-Pacific Partnership (TPP) countries, Vietnam is a growing market for U.S. wine exports, which totaled USD 11.7 million in 2015. TPP's intellectual property rights chapter will help reduce export burdens in Vietnam.

Despite these positive steps, Wine Institute cites Vietnam for inadequate use of its geographical indication (GI) registry. In May 2007, the Napa Valley Vintners (NVV) trade association submitted an application to Vietnam's GI registry for exclusive use of the term "Napa Valley" on wine sold in Vietnam. To date, Vietnam has been unwilling to process the application, despite a National Office of Intellectual Property meeting with U.S. government officials and Wine Institute in Hanoi on September 9, 2016. Wine Institute requests that the U.S. government continue urging Vietnam to approve NVV's application without further delay.

Category #9, Sanitary and Phytosanitary Barriers: Winemaking Additives
Potential Increase in U.S. Exports: $5-25 million
Explanation:

Vietnam is one of several countries that have incorporated the Codex Alimentarius General Standard for Food Additives in their national regulations. As currently drafted, the Codex standard excludes many additives and processing aids that are critical in the winemaking process and approved for use in many winemaking countries, including the United States. Officials that participate in the Codex Committee on Food Additives (CCFA) are currently discussing the addition of more wine additives. In the meantime, U.S. wines exported to Vietnam could experience regulatory barriers at port. The U.S. government is currently addressing this issue with Vietnamese officials, and Wine Institute supports these discussions. Other countries such as Malaysia, Indonesia and India have adopted the Codex standard. While India proposed additional wine additives, the trade barrier remains with Malaysia, Indonesia and any other country that chooses to adopt the current Codex additive standard. Wine Institute requests that the U.S. government continue its active engagement with Vietnam, Malaysia and Indonesia regarding this issue and its important work in the CCFA to revise the General Standard for Food Additives.

OTHER KEY MARKETS

Category #10, Technical Barriers to Trade-Export Certification
Potential Increase in U.S. Exports: over $500 million
Explanation:

Many countries including Brazil, Colombia, EU, Peru and Russia require one or multiple certificates for imported wine from the U.S. even when those wines conform to both U.S. and the importing country's standards. Often these certificates must be an original document issued by U.S. government officials or an officially accredited organization which is only located in the country of importation.

There are two positive areas in which the U.S. government and industry have worked for decades to reduce export certificates. The World Wine Trade Group developed a mutual acceptance of national winemaking standards and eliminated certification between the eight member countries. This mutual acceptance of winemaking standards and practices is paramount to facilitating international wine trade and allowing fair access to markets between World Trade Organization members.

As mentioned elsewhere in this document, the work undertaken between Wine Institute and the U.S. government within the Asian Pacific Economic Cooperation (APEC) Wine Regulatory Forum, in this instance on certification, has resulted in successful outcomes including: 1) the 2013 agreement between the United States and China to consolidate three certificates into one for U.S. wine exports to China, and 2) a model APEC WRF voluntary certificate, which when adopted by APEC member economies, will reduce regulatory burdens while maintaining product quality, safety and authenticity. Unfortunately, many countries, such as those mentioned above, continue to require multiple unnecessary certificates. Wine Institute encourages the U.S. government to promote with other countries the principles regarding use of certificates listed in Section 4 of the Codex Guidelines for Design, Production, Issuance and Use of Generic Official Certificates.[6]

Category #10, Technical Barriers to Trade: Registration
Potential Increase to exports: Over $500 million
Explanation:

Many countries require registration of imported products with their country specific official importer database before goods can be sold. U.S. wine exporters when importing as registration requirements change frequently and do not maintain consistency between border portals. Registration costs are relatively high without ceilings. Registering in importing countries is often time consuming. Requested information can be excessive and duplicative, and can include information already provided on official export certificates. As an example, Mexico requires registration in four different databases. Several ports in China are implementing separate registration processes. Wine Institute requests the U.S. government's assistance to engage with countries such as Mexico, China, Colombia, Russia and others to reduce onerous and duplicative registration processes.

[6] Codex Committee on Food Import and Export Inspection and Certification Systems. "Guidelines for Design, Production, Issuance and Use of Generic Official Certificates (CAC/GL 38-2001)." http://bit.ly/2ekdaHp

Category #10, Technical Barriers to Trade: Laboratory Analysis and Certificate of Analysis
Potential Increase in U.S. Exports to Russia: $5-50 million
Potential Increase in U.S. Exports to Brazil: $5-50 million
Potential Increase to APEC economies: Over $500 million
Explanation:

Laboratory analyses for quality and safety and related certification are a common requirement for import into designated countries. For example, Brazil requires proof of analysis verifying certification for ten different chemical compounds, hindering time to market for producers. This approach to trade does not align with internationally accepted norms. Russia, as part of the Eurasian Customs Union (EACU), requires that many products, including wine, must obtain a Declaration of Conformity. Only companies located within the Eurasian Customs Union are accredited to perform the tests necessary to obtain the Declaration. Other countries have multiple testing and certification requirements for imported wine including sanitation and wine standards conformance. Tests are to be conducted by private companies contracted by the importing country authorities and can cost as much a USD 1,000 per shipment. Lab analysis is a costly endeavor and time-consuming barrier to trade.

To lessen the impact of these barriers, Wine Institute has joined with the U.S. government to increase cooperation in laboratory analysis, through the APEC Wine Regulatory Forum's Working Group on Enhanced Risk Controls. The group carried out a ring test across the region's laboratories to promote consistency and accuracy of analytical testing of key wine parameters: alcohol, sugar, sulfites, and possibly metals. The results showed large variance the measurements of these parameters. As a follow-up to the ring test, APEC WRF delegates attended a Laboratory Workshop in May 2016 to receive training and an exchange of best practices in the testing of the four parameters. Wine Institute appreciates the current collaboration with several U.S. government agencies, including TTB, to work within APEC and through other initiatives such as the International Wine Technical Summit, to reduce unnecessary and inaccurate testing of wine.

CONCLUSION

While this document focuses on specific trade challenges, Wine Institute and the U.S. government are collaborating on other important initiatives to reduce export regulatory burdens while at the same time respecting each country's right to regulate including:

- World Wine Trade Group's **Mutual Acceptance Agreement of Oenological Practices (MAA)** is the first multi-lateral Mutual Acceptance Agreement, in any field, fully compliant with the Technical Barriers to Trade Agreement. For winemakers, exporters and importers the implications of the Agreement are profound - assured access to markets without the costs and frustrations of barriers to trade based on differences in oenological practices. The essence of the MAA is that wine made in accordance with oenological practices permitted in one signatory country may be imported into any other signatory country regardless of the rules applying to oenological practices in the importing country.
- World Wine Trade Group's "**Tbilisi Statement** on Analytical Methodology and Regulatory Limits on Constituents and Potential Contaminants in Wine" contains 11 principles of critical importance addressing a continuing pattern of wine trade barriers including those mentioned above, such as risk analysis and pesticide limits.
- **International Wine Technical Summit** is a collaborative group of government and industry representatives who have an understanding of technical issues surrounding wine production and trade. The Summit's purpose is to share best practices, and exchange ideas and experiences while fostering a collaborative environment in which to discuss:
    - Sound science in wine regulation and enforcement, and
    - Trade issues of a technical or scientific nature.

In addition, Wine Institute actively participates in FIVS, the important international alcoholic beverage federation, which brings together producers and trade associations from around the world to remove barriers and promote open trade.

In closing, Wine Institute sincerely appreciates the opportunity to comment on the Federal Register notice regarding Foreign Trade Barriers to U.S. Exports for 2016 and is grateful for the Office of U.S. Trade Representative's and other U.S. agencies' tireless efforts and longstanding support to combat trade barriers and expand market access for U.S. wine exports.