March 8, 2013

The Honorable Devin Nunes
U.S. House of Representatives
Longworth House Office Building Suite 1013
Washington, DC 20515

Dear Congressman Nunes:

In response to your announcement of a Ways and Means Trade Subcommittee hearing next week on improving the bilateral trade relationship with India, we ask that you and Committee members consider the significant non-tariff and tariff barriers that California and U.S. wineries face in exporting to India.

India is one of the emerging BRIC (Brazil, Russia, India and China) markets of major interest to the U.S. wine industry. Its wine import market is USD 25 million of which USD 1.35 million or 5.4 percent is the U.S. share. EU wine producers dominate the import market with a 62 percent share. Of the four BRIC countries, India has been the most difficult for California producers in seeking better market access. In addition to the prohibitive tariff of 150 percent, several of the provincial states impose taxes on wine imports to protect their domestic winemaking industry. In addition, the non-tariff issues make it virtually impossible for small and medium sized wineries to export to India. The most difficult non-tariff barriers are the winemaking regulations that exclude the use of certain internationally accepted additives and processing aids used by U.S. winemakers.

The Indian government and its people see this combination of national growth and interest from abroad and have taken action to support and supply their own emerging demand from within. This national demand for products such as wine has encouraged the development of a domestic wine industry and the Indian government has taken significant strides in developing its trade policies to protect its nascent industry.

Another non-tariff barrier is the requirement that all imported wines must be stored at a government approved custom bonded warehouse that includes paying a storage fee. The wines can be released from the bonded warehouse for distribution only after the importer/distributor meets all the mandatory requirements of the state where they plan to market and/or sell the product.

Control over selling, distribution, and pricing of alcoholic beverages belongs to state governments under Section 47 of the Directive Principles of the Indian Constitution. India is a federal nation, and like the U.S., the Central government has empowered states to generate revenue and control sales. Each of India's 29 states and 6 union territories has its own rules and regulations for alcohol control. In many states, the collection of excise taxes on alcohol and tobacco products represents the majority of a state's yearly revenue. Each state therefore determines its own excise policy, which is declared annually between March and April. As an example of the discrimination against U.S. imports, the Excise Department of the state of Maharashtra charges a 200% ‘special fee’ on imported wine. The Indian Government (state and federal) asserts that this fee is designed to offset the cost of domestic excise taxes charged upon local producers; however, the Maharashtra State Government has provided an excise tax exemption for local wine producers. Under this example, the state government of Maharashtra is claiming that excise taxes levied on local wine producers (which they are exempt from paying) provides justification for charging a 200% fee on wines originating outside the state but sold within its boundaries.

States such as Uttar Pradesh and Tamil Nadu control imports by refusing to issue an excise Transport Permit. The Transport permit is the distribution authorization form that allows goods to be released from warehouses and delivered to designated customers, be they hotels or other authorized retail outlets.

Despite these significant barriers U.S. wineries have doubled their exports to India over the last two years. By comparison, however, the Indian wineries being protected and subsidized by their state and federal government increased exports globally in the last few years from less than USD 1 million to over USD 4.5 million.

Thank you very much for your efforts to remove these discriminatory barriers, including the state excise taxes, which make it virtually impossible for U.S. wineries to compete with the heavily subsidized and protected Indian producers.

Sincerely,

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