

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
AND THE ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
OF THE UNITED STATES DEPARTMENT OF TREASURY
WITH RESPECT TO THE IMPLEMENTATION OF THE AGREEMENT BETWEEN
THE OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE AND
THE SECRETARIA DE ECONOMIA OF MEXICO ON TRADE IN TEQUILA**

PART I: Introduction

1. This memorandum between the Office of the United States Trade Representative ("USTR") and the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of Treasury ("TTB") sets forth the respective roles and responsibilities of USTR and TTB with respect to the implementation of the Agreement Between the Office of the United States Trade Representative and the Secretaría de Economía of Mexico on Trade in Tequila ("Agreement"), in which USTR made certain undertakings on behalf of the United States Government ("USG") to the Secretaría de Economía ("SE") regarding trade in tequila.

PART II: Legal Authority

2. USTR is authorized by section 141 of the Trade Agreements Act of 1974 (19 U.S.C. § 2171), as amended; Executive Order 12188 of January 2, 1980 (45 Fed. Reg. 989, 3 CFR, 1980 Comp., p. 131), as amended; Reorganization Plan No. 3 of 1979, as amended; and Executive Order 11846 of March 27, 1975 (40 Fed. Reg. 14,291, 3 CFR, 1971-1975 Comp., p. 971), as amended, to negotiate and administer international trade agreements on behalf of the United States Government.
3. TTB is authorized by the Internal Revenue Code of 1986 (26 U.S.C. Chapter 51), the Federal Alcohol and Administration Act (27 U.S.C. §§ 201 et seq.), and Treasury Department Order No. 120-1 (Revised) (January 24, 2003) to regulate the importation, manufacture, and production of distilled spirits products, including the storage, bottling, advertising, and labeling of distilled spirits, including tequila, in the United States.

PART III: Obligations of USTR

4. USTR shall take the following actions to implement the Agreement:
 - (a) Notify TTB of any revisions to the Official Mexican Standard for Tequila, and other relevant regulations and standards referenced in it; (Article 3.1)
 - (b) Review and provide clearance on communications between TTB and SE, including but not limited to obligations delegated to TTB pursuant to sections 5(e)-(h) of this MOU, below;
 - (c) Represent the USG at the Working Group on Tequila, including in any consultations

with representatives of non-governmental bodies, including the industry representatives that participated in the development of the joint recommendations contained in Annex 1 of the Agreement; (Article 5)

- (d) Submit reports to the Working Group from information provided pursuant to section 5(j) of this MOU; (Article 6.6) and
- (e) Represent the USG at any consultations held pursuant to Articles 7.1 or 10.3.

PART IV: Obligations of TTB

5. TTB shall take the following actions to implement the Agreement:

- (a) Issue an industry circular concerning tequila, which notifies businesses that import, bottle, or distribute tequila in the United States of United States laws and regulations concerning these activities; restates the basic elements of the 1975 industry circular (number 75-13), issued by the Bureau of Alcohol, Tobacco and Firearms regarding the Standard of Identity for Tequila; and provides specific examples of unauthorized activities in connection with the importation of tequila, within 12 months after the Agreement enters into force; (Articles 2.1 and 2.2)
- (b) Ensure that the bottling of, and bulk storage operations for, tequila is prohibited in the United States unless conducted by a distiller, warehouseman, or processor, as those terms are defined in United States law, on the bonded premises of a distilled spirits plant, as that term is defined in United States law, by a person qualified to carry out these operations under Title 27, Chapter I, Part 19, Subpart G of the Code of Federal Regulations, as may be amended; (Article 2.3)
- (c) Ensure that no label for a product that claims to be tequila or claims to contain tequila contains any brand name which, standing alone, or in association with other printed or graphic matter, creates any impression or inference as to the age, origin, identity, or other characteristics of the product, unless TTB finds that such brand name (when appropriately qualified if required) conveys no erroneous impressions as to the age, origin, identity, or other characteristics of the product; (Article 2.4)
- (d) Ensure that if it determines that a bottler is in violation of applicable United States laws or regulations, the bottler is brought into compliance with those laws or regulations; (Article 5.4)
- (e) Receive and address complaints that SE submits to the Working Group regarding specific incidents or patterns of alleged non-compliance with Article 2.4; 27 U.S.C. § 205(f), with regard to the advertising of tequila and products containing tequila; or United States laws governing the bottling of tequila. Obtain USTR clearance on any such communications with SE; (Articles 5.3 and 5.4)

- (f) Receive inquiries or complaints that SE lodges regarding specific incidents or patterns of alleged non-compliance that implicate the provisions of NAFTA Article 313 and Annex 313.3 with respect to tequila. Review and investigate all such complaints and take action, where appropriate, such as the destruction of the product, relabeling of the product, assessment of fines, or any other action that TTB has authority to take. Seek additional information from SE, as necessary. Record and track such inquiries and complaints, and the resolution thereof. Notify USTR of such complaints and obtain USTR clearance on any such communications with SE; (Articles 6.2, 6.3)
- (g) Upon request, provide SE with publicly available information on the status of its submissions made pursuant to Article 6.2. After completion of review or investigation such submissions, provide SE with publicly available final disposition. Provide SE an opportunity to seek clarification on such final disposition. Obtain USTR clearance on any such communications with SE; (Article 6.4)
- (h) Notify SE if it revokes or terminates a Distilled Spirits Plant permit from a bottler registered on the Tequila Bottlers Registry and obtain USTR clearance prior to such communication with SE; (Article 4.3)
- (i) Send a representative to all meetings of the Working Group on Tequila, including any consultations with representatives of non-governmental bodies, including the industry representatives that participated in the development of the joint recommendations contained in Annex 1 of the Agreement; (Article 5)
- (j) Provide SE, at each meeting of the Working Group, any publicly available information that it requests on the status of a submission made pursuant to Article 6.2, including the date each submission was received and the date the investigation was concluded or, if the investigation was not concluded, its current status; (Article 6.6) and
- (k) Provide available statistics at the country-level on trade in tequila at each Working Group meeting, as well as with any information concerning the importation and exportation of tequila that SE may request. (Article 5.2)
- (l) Send a representative to any consultations held pursuant to Articles 7.1 or 10.3.

PART V: Confidentiality

- 6. USTR and TTB shall ensure that in implementing the terms of this Agreement, they do not furnish or allow access to information the disclosure of which would impede law enforcement or would be contrary to laws protecting personal privacy, trade secrets, confidential information, or the financial affairs and accounts of individual customers of financial institutions. (Article 8)

**FOR THE OFFICE OF THE UNITED
STATES TRADE REPRESENTATIVE**

Regina K. Vargo
Assistant U.S. Trade Representative
For the Americas
December 16, 2005

**FOR THE ALCOHOL AND TOBACCO
TAX AND TRADE BUREAU OF THE U.S.
DEPARTMENT OF THE TREASURY**

John J. Manfreda
Administrator

December 16, 2005