

ESTTA Tracking number: **ESTTA189886**

Filing date: **01/30/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Distilled Spirits Council of the United
Granted to Date of previous extension	01/30/2008
Address	1250 Eye St. NW Ste. 400 Washington, DC 20005 UNITED STATES
Party who filed Extension of time to oppose	Distilled Spirits Council of the United States, Inc.
Relationship to party who filed Extension of time to oppose	The name of the opposer, Distilled Spirits Council of the United States, Inc., has not changed. The name field on the ESTTA website would not allow enough space to type the full name.

Attorney information	L. Charles Landgraf Dewey & LeBoeuf LLP 1101 New York Ave. NW Ste. 1100 Washington, DC 20005 UNITED STATES landgraf@dl.com, kmarshall@dl.com, tburnett@dl.com, sgatewoo@dl.com Phone:202-986-8000
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Applicant Information

Application No	77147563	Publication date	10/02/2007
Opposition Filing Date	01/30/2008	Opposition Period Ends	01/30/2008
Applicant	Allied Lomar, Inc. 1199 Howard Ave. Suite 350 Burlingame, CA 94010 UNITED STATES		

Goods/Services Affected by Opposition

Class 033. First Use: 2007/03/28 First Use In Commerce: 2007/03/28 All goods and services in the class are opposed, namely: Liquor

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

The mark is deceptively misdescriptive	Trademark Act section 2(e)(1)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	BOURBON		
Goods/Services	Bourbon whiskey		

Attachments	Bourboncraft_v1.pdf (5 pages)(71012 bytes) Exhibits_v1.PDF (26 pages)(1459844 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Facsimile or email (by agreement only) on this date.

Signature	/landgraf/
Name	L. Charles Landgraf
Date	01/30/2008

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Distilled Spirits Council of the United States, Inc.)) Opposition No. _____
)	
Opposer,)	
)	
v.)	NOTICE OF OPPOSITION
)	
Allied Lomar, Inc.)	
)	
Applicant.)	
)	

In the matter of Application Serial No. 77/147,563 for registration of the mark “BOURBONCRAFT” in International Class 33 by Allied Lomar, Inc. (hereinafter referred to as “Applicant”), which application was published in the Official Gazette on October 2, 2007, the Distilled Spirits Council of the United States, Inc. (hereinafter referred to as “DISCUS” or the “Opposer”) believes the interests of its members will be damaged by registration of this mark in International Class 33 and therefore opposes registration of the mark in International Class 33.¹ DISCUS is a United States non-profit trade association organized under the laws of the State of Delaware, with its principal place of business and address at 1250 Eye Street, N.W., Suite 400, Washington, D.C. 20005.

As grounds for the opposition, DISCUS alleges as follows:

¹ On November 29, 2007, the Trademark Trial and Appeal Board (the “Board”) granted DISCUS’ request to extend the time to oppose until January 30, 2007. The Board previously granted DISCUS’ request for an extension of time to oppose on October 25, 2007.

1. DISCUS represents producers and marketers of distilled spirits sold in the United States and around the world, including Bourbon whiskey. One of DISCUS' objectives is the worldwide defense of its members' commercial interests, including intellectual property rights. In furtherance of this objective, DISCUS seeks to protect distinctive appellations or names ("terms") of beverage alcohol products produced in the United States. Among these terms is "Bourbon," which exclusively denotes a corn-based whiskey made in the United States according to specifications set forth in federal regulations.

2. Bourbon is the subject of United States laws on the production, labeling and advertising of spirits. These laws specifically define Bourbon as follows:

"Bourbon whisky" ... is whisky produced at not exceeding 160° proof from a fermented mash of not less than 51 percent corn ..., and stored at not more than 125° proof in charred new oak containers.

These strict production specifications must be met in order to qualify for use of the term "Bourbon." (See Ex. A, a copy of the Standards of Identity for Bourbon as prescribed by the Tax and Trade Bureau of the United States Department of Treasury, 27 C.F.R. § 5.22(b)(1)(i).)

3. The term "Bourbon" is well-recognized in the United States and throughout the world as a distinctive product necessarily made in the United States according to the production processes described above. The distinctive U.S. origin of Bourbon has been officially recognized under United States law and the laws of other countries and by international agreement.

4. The 88th Congress of the United States formally recognized the distinctiveness of Bourbon whiskey 41 years ago on May 4, 1964. The United States

Congress approved a Concurrent Resolution on that date declaring Bourbon whiskey to be a distinctive product of the United States, recognized and accepted throughout the world as such. This Congressional Resolution includes declarations that the type of whiskey known as Bourbon:

“is a distinctive product of the United States and is unlike other types of alcoholic beverages, whether foreign or domestic; and

. . . must conform to the highest standards and must be manufactured in accordance with the laws and regulations of the United States which prescribe a standard of identity for “Bourbon whiskey”; and

. . . has achieved recognition and acceptance throughout the world as a distinctive product of the United States.

(See Ex. B, a copy of the aforementioned Concurrent Resolution.)

5. Bourbon has been explicitly recognized as a distinctive product of the United States in treaties and international agreements. As evidence of Bourbon's international recognition, we offer the following:

- (a) an Agreement on Mutual Recognition of Certain Distilled Spirits/Spirit Drinks between the European Union and the United States which specifically restricts the use of the product designations “Bourbon whisky”/“Bourbon whiskey” and “Bourbon” to a distilled spirits drink that is a product of the United States and produced in compliance with U.S. laws and regulations;
- (b) Annex 313 of the North American Free Trade Agreement (NAFTA) in which Mexico and Canada have recognized Bourbon as a distinctive product of the United States;

- (c) a bilateral agreement between the United States and France; and
- (d) Article 3.15 of the U.S. – Chile Free Trade Agreement, recognizing Bourbon as a distinctive product of the United States.

(See Ex. C, a copy of excerpts from the aforesaid agreements.)

6. By virtue of worldwide exports, sales and consumption, Bourbon whiskey has a recognized reputation and goodwill as a distinctive product originating from the United States.

7. DISCUS has no evidence that the applicant's product is genuine Bourbon whiskey made according to the above-referenced specifications under federal law.

8. DISCUS opposes the application to register "BOURBONCRAFT" because the proposed mark contains the term "Bourbon" and, as noted, Bourbon denotes a distinctive product made to specific standards. The Applicant's proposed mark is likely to cause consumers to be confused or mistaken, or to be deceived that products bearing the proposed mark constitute genuine Bourbon whiskey or originate from, or are endorsed or sponsored by, or affiliated with, Bourbon whiskey producers or with genuine Bourbon whiskey.

9. Bourbon whiskey producers would be damaged if the Applicant's mark is allowed to become registered.

10. Based on the foregoing, DISCUS opposes the proposed registration of "BOURBONCRAFT" and respectfully requests that the Trademark Trial and Appeal Board reject the registration of this mark.

WHEREFORE, DISCUS prays that said application Serial Number 77/147,536 be rejected as to International Class 33, that no registration be issued thereon to Applicant for International Class 33 and that this opposition be sustained in favor of DISCUS.

Please deduct the fee of \$300.00 to cover the cost for filing the Notice of Opposition from Deposit Account No. 502761.

Respectfully submitted,

/L. Charles Landgraf/
L. Charles Landgraf
LeBoeuf, Lamb, Greene & MacRae LLP
1101 New York Ave., N.W. Suite 1100
Washington, D.C. 20005

Counsel for DISCUS

Dated: January 30, 2008

EXHIBIT A

**SUBPART C—STANDARDS OF IDENTITY
FOR DISTILLED SPIRITS**

[¶ 21521]

§ 5.21 **Application of standards.** The standards of identity for the several classes and types of distilled spirits set forth in this part shall be applicable only to distilled spirits for beverage or other nonindustrial purposes.

[¶ 21522]

§ 5.22 **The standards of identity.** Standards of identity for the several classes and types of distilled spirits set forth in this section shall be as follows (see also § 5.35, class and type):

(a) *Class 1; neutral spirits or alcohol.* "Neutral spirits" or "alcohol" are distilled spirits produced from any material at or above 190° proof, and, if bottled, bottled at not less than 80° proof.

(1) "Vodka" is neutral spirits so distilled, or so treated after distillation with charcoal or other materials, as to be without distinctive character, aroma, taste, or color.

(2) "Grain spirits" are neutral spirits distilled from a fermented mash of grain and stored in oak containers.

(b) *Class 2; whisky.* "Whisky" is an alcoholic distillate from a fermented mash of grain produced at less than 190° proof in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to whisky, stored in oak containers (except that corn whisky need not be so stored), and bottled at not less than 80° proof, and also includes mixtures of such distillates for which no specific standards of identity are prescribed.

(1)(i) "Bourbon whisky", "rye whisky", "wheat whisky", "malt whisky", or "rye malt whisky" is whisky produced at not exceeding 160° proof from a fermented mash of not less than 51 percent corn, rye, wheat, malted barley, or malted rye grain, respectively, and stored at not more than 125° proof in charred new oak containers; and also includes mixtures of such whiskies of the same type.

(ii) "Corn whisky" is whisky produced at not exceeding 160° proof from a fermented mash of not less than 80 percent corn grain, and if stored in oak containers stored at not more than 125° proof in used or uncharred new oak containers and not subjected in any manner to treatment with charred wood; and also includes mixtures of such whisky.

(iii) Whiskies conforming to the standards prescribed in subdivisions (i) and (ii) of this subparagraph, which have been stored in the type of oak containers prescribed, for a period of 2 years or more shall be further designated as "straight"; for example, "straight bourbon whisky", "straight corn whisky", and whisky conforming to the standards prescribed in subdivision (i) of this subparagraph,

except that it was produced from a fermented mash of less than 51 percent of any one type of grain, and stored for a period of 2 years or more in charred new oak containers shall be designated merely as "straight whisky". No other whiskies may be designated "straight". "Straight whisky" includes mixtures of straight whiskies of the same type produced in the same State.

(2) "Whisky distilled from bourbon (rye, wheat, malt, or rye malt) mash" is whisky produced in the United States at not exceeding 160° proof from a fermented mash of not less than 51 percent corn, rye, wheat, malted barley, or malted rye grain, respectively, and stored in used oak containers; and also includes mixtures of such whiskies of the same type. Whisky conforming to the standard of identity for corn whisky must be designated corn whisky.

(3) "Light whisky" is whisky produced in the United States at more than 160° proof, on or after January 26, 1968, and stored in used or uncharred new oak containers; and also includes mixtures of such whiskies. If "light whisky" is mixed with less than 20 percent of straight whisky on a proof gallon basis, the mixture shall be designated "blended light whisky" (light whisky—a blend).

(4) "Blended whisky" (whisky—a blend) is a mixture which contains straight whisky or a blend of straight whiskies at not less than 20 percent on a proof gallon basis, excluding alcohol derived from added harmless coloring, flavoring or blending materials, and, separately, or in combination, whisky or neutral spirits. A blended whisky containing not less than 51 percent on a proof gallon basis of one of the types of straight whisky shall be further designated by that specific type of straight whisky; for example, "blended rye whisky" (rye whisky—a blend).

(5)(i) "A blend of straight whiskies" (blended straight whiskies) is a mixture of straight whiskies which does not conform to the standard of identity for "straight whisky." Products so designated may contain harmless coloring, flavoring, or blending materials as set forth in 27 CFR 5.23(a).

(ii) "A blend of straight whiskies" (blended straight whiskies) consisting entirely of one of the types of straight whisky, and not conforming to the standard for straight whisky, shall be further designated by that specific type of straight whisky; for example, "a blend of straight rye whiskies" (blended straight rye whiskies). "A blend of straight whiskies" consisting entirely of one of the types of straight whisky shall include straight whisky of the same type which was produced in the same State or by the same proprietor within the same State, provided that such whisky contains harmless coloring, flavoring, or blending materials as stated in 27 CFR 5.23(a).

(iii) The harmless coloring, flavoring, or blending materials allowed under this section shall not include neutral spirits or alcohol in their original state. Neutral spirits or alcohol may only appear in a "blend of straight whiskies" or in a "blend of straight whiskies consisting entirely of one of the types of straight whisky" as a vehicle for recognized flavoring or blending material.

(6) "Spirit whisky" is a mixture of neutral spirits and not less than 5 percent on a proof gallon basis of whisky, or straight whisky, or straight whisky and whisky, if the straight whisky component is less than 20 percent on a proof gallon basis.

(7) "Scotch whisky" is whisky which is a distinctive product of Scotland, manufactured in Scotland in compliance with the laws of the United Kingdom regulating the manufacture of Scotch whisky for consumption in the United Kingdom: *Provided*, That if such product is a mixture of whiskies, such mixture is "blended Scotch whisky" (Scotch whisky—a blend).

(8) "Irish whisky" is whisky which is a distinctive product of Ireland, manufactured either in the Republic of Ireland or in Northern Ireland, in compliance with their laws regulating the manufacture of Irish whisky for home consumption: *Provided*, That if such product is a mixture of whiskies, such mixture is "blended Irish whisky" (Irish whisky—a blend).

(9) "Canadian whisky" is whisky which is a distinctive product of Canada, manufactured in Canada in compliance with the laws of Canada regulating the manufacture of Canadian whisky for consumption in Canada: *Provided*, That if such product is a mixture of whiskies, such mixture is "blended Canadian whisky" (Canadian whisky—a blend).

(c) *Class 3; gin.* "Gin" is a product obtained by original distillation from mash, or by redistillation of distilled spirits, or by mixing neutral spirits, with or over juniper berries and other aromatics, or with or over extracts derived from infusions, percolations, or maceration of such materials, and includes mixtures of gin and neutral spirits. It shall derive its main characteristic flavor from juniper berries and be bottled at not less than 80° proof. Gin produced exclusively by original distillation or by redistillation may be further designated as "distilled". "Dry gin" (London dry gin), "Geneva gin" (Hollands gin), and "Old Tom gin" (Tom gin) are types of gin known under such designations.

(d) *Class 4; brandy.* "Brandy" is an alcoholic distillate from the fermented juice, mash, or wine of fruit, or from the residue thereof, produced at less than 190° proof in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to the product, and bottled at not less than 80° proof. Brandy, or mixtures thereof, not conforming to any of the standards in subparagraphs (1)-(8) of this paragraph shall be designated as "brandy", and such designation shall be immediately followed by a truthful and adequate statement of composition.

(1) "Fruit brandy" is brandy distilled solely from the fermented juice or mash of whole, sound, ripe fruit, or from standard grape, citrus, or other fruit wine, with or without the addition of not more than 20 percent by weight of the pomace of such juice or wine, or 30 percent by volume of the lees of such wine, or both (calculated prior to the addition of water to facilitate fermentation or distillation). Fruit brandy shall include mixtures of such brandy with not more than 30 percent (calculated on a proof gallon basis) or lees brandy. Fruit brandy, derived

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from grapes, shall be designated as "grape brandy" or "brandy", except that in the case of brandy (other than neutral brandy, pomace brandy, marc brandy or grappa brandy) distilled from the fermented juice, mash, or wine of grapes, or the residue thereof, which has been stored in oak containers for less than two years, the statement of class and type shall be immediately preceded, in the same size and kind of type, by the word "immature". Fruit brandy, other than grape brandy, derived from one variety of fruit, shall be designated by the word "brandy" qualified by the name of such fruit (for example, "peach brandy"), except that "apple brandy" may be designated "applejack". Fruit brandy derived from more than one variety of fruit shall be designated as "fruit brandy" qualified by a truthful and adequate statement of composition.

(2) "Cognac", or "Cognac (grape) brandy", is grape brandy distilled in the Cognac region of France, which is entitled to be so designated by the laws and regulations of the French government.

(3) "Dried fruit brandy" is brandy that conforms to the standard for fruit brandy except that it has been derived from sound, dried fruit, or from the standard wine of such fruit. Brandy derived from raisins, or from raisin wine, shall be designated as "raisin brandy". Other brandies shall be designated in the same manner as fruit brandy from the corresponding variety or varieties of fruit except that the name of the fruit shall be qualified by the word "dried".

(4) "Lees brandy" is brandy distilled from the lees of standard grape, citrus, or other fruit wine, and shall be designated as "lees brandy", qualified by the name of the fruit from which such lees are derived.

(5) "Pomace brandy", or "marc brandy", is brandy distilled from the skin and pulp of sound, ripe grapes, citrus or other fruit, after the withdrawal of the juice or wine therefrom, and shall be designated as "pomace brandy", or "marc brandy", qualified by the name of the fruit from which derived. Grape pomace brandy may be designated as "grappa" or "grappa brandy".

(6) "Residue brandy" is brandy distilled wholly or in part from the fermented residue of fruit or wine, and shall be designated as "residue brandy" qualified by the name of the fruit from which derived. Brandy distilled wholly or in part from residue materials which conforms to any of the standards set forth in subparagraphs (1), (3), (4), and (5) of this paragraph may, regardless of such fact, be designated "residue brandy", but the use of such designation shall be conclusive, precluding any later change of designation.

(7) "Neutral brandy" is brandy produced at more than 170° proof and shall be designated in accordance with the standards in this paragraph, except that the designation shall be qualified by the word "neutral"; for example, "neutral citrus residue brandy".

(8) "Substandard brandy" shall bear as a part of its designation the word "substandard", and shall include:

(i) Any brandy distilled from fermented juice, mash, or wine having a volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, in excess of 0.20 gram per 100 cubic centimeters (20° C.); measurements of volatile acidity shall be calculated exclusive of water added to facilitate distillation.

(ii) Any brandy which has been distilled from unsound, moldy, diseased, or decomposed juice, mash, wine, lees, pomace, or residue, or which shows in the finished product any taste, aroma, or characteristic associated with products distilled from such material.

(e) *Class 5; blended applejack.* "Blended applejack" (applejack—a blend) is a mixture which contains at least 20 percent of apple brandy (applejack) on a proof gallon basis, stored in oak containers for not less than two years, and not more than 80 percent of neutral spirits of a proof gallon basis if such mixture at the time of bottling is not less than 80° proof.

(f) *Class 6; rum.* "Rum" is an alcoholic distillate from the fermented juice of sugar cane, sugar cane syrup, sugar cane molasses, or other sugar cane byproducts, produced at less than 190° proof in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to rum, and bottled at not less than 80° proof; and also includes mixtures solely of such distillates.

(g) *Class 7; Tequila.* "Tequila" is an alcoholic distillate from a fermented mash derived principally from the Agave Tequilana Weber ("blue" variety), with or without additional fermentable substances, distilled in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to Tequila and bottled at not less than 80° proof, and also includes mixtures solely of such distillates. Tequila is a distinctive product of Mexico manufactured in Mexico in compliance with the laws of Mexico regulating the manufacture of Tequila for consumption in that country.

(h) *Class 8; cordials and liqueurs.* Cordials and liqueurs are products obtained by mixing or redistilling distilled spirits with or over fruits, flowers, plants, or pure juices therefrom, or other natural flavoring materials, or with extracts derived from infusions, percolation, or maceration of such materials, and containing sugar, dextrose, or levulose, or a combination thereof, in an amount not less than 2½ percent by weight of the finished product.

(i) "Sloe gin" is a cordial or liqueur with the main characteristic flavor derived from sloe berries.

(j) "Rye liqueur", "bourbon liqueur" (rye, bourbon cordial) are liqueurs, bottled at not less than 60° proof, in which not less than 51 percent, on a proof gallon basis, of the distilled spirits used are, respectively, rye or bourbon whisky, straight rye or straight bourbon whisky, or whisky distilled from a rye or bourbon mash, and which possess a predominant characteristic rye or bourbon flavor derived from such whisky. Wine, if used, must be within the 2½ percent limitation provided in § 5.23 for coloring, flavoring, and blending materials.

(k) "Rock and rye", "rock and bourbon", "rock and brandy", "rock and rum" are liqueurs, bottled

at not less than 48° proof, in which, in the case of rock and rye and rock and bourbon, not less than 51 percent, on a proof gallon basis, of the distilled spirits used are, respectively, rye or bourbon whisky, straight rye or straight bourbon whisky, or whisky distilled from a rye or bourbon mash, and, in the case of rock and brandy and rock and rum, the distilled spirits used are all grape brandy or rum, respectively; containing rock candy or sugar syrup, with or without the addition of fruit, fruit juices, or other natural flavoring materials, and possessing, respectively, a predominant characteristic rye, bourbon, brandy, or rum flavor derived from the distilled spirits used. Wine, if used, must be within the 2½ percent limitation provided in § 5.23 for harmless coloring, flavoring, and blending materials.

(4) "Rum liqueur," "gin liqueur," "brandy liqueur," are liqueurs, bottled at not less than 60 proof, in which the distilled spirits used are entirely rum, gin, or brandy, respectively, and which possess, respectively, a predominant characteristic rum, gin, or brandy flavor derived from the distilled spirits used. In the case of brandy liqueur, the type of brandy must be stated in accordance with § 5.22(d), except that liqueurs made entirely with grape brandy may be designated simply as "brandy liqueur." Wine, if used, must be within the 2½ percent limitation provided for in § 5.23 for harmless coloring, flavoring, and blending materials.

(5) The designation of a cordial or liqueur may include the word "dry" if the sugar, dextrose, or levulose, or a combination thereof, are less than 10 percent by weight of the finished product.

(6) Cordials and liqueurs shall not be designated as "distilled" or "compound".

(i) *Class 9; flavored brandy, flavored gin, flavored rum, flavored vodka, and flavored whisky.* "Flavored brandy", "flavored gin", "flavored rum", "flavored vodka", and "flavored whisky" are brandy, gin, rum, vodka, and whisky, respectively, to which have been added natural flavoring materials, with or without the addition of sugar, and bottled at not less than 60° proof. The name of the predominant flavor shall appear as a part of the designation. If the finished product contains more than 2½ percent by volume of wine, the kinds and percentages by volume of wine must be stated as a part of the designation, except that a flavored brandy may contain an additional 12½ percent by volume of wine, without label disclosure, if the additional wine is derived from the particular fruit corresponding to the labeled flavor of the product.

(j) *Class 10; imitations.* Imitations shall bear, as a part of the designation thereof, the word "imitation" and shall include the following:

(1) Any class or type of distilled spirits to which has been added coloring or flavoring material of such nature as to cause the resultant product to simulate any other class or type of distilled spirits;

(2) Any class or type of distilled spirits (other than distilled spirits required under § 5.35 to bear a distinctive or fanciful name and a truthful and adequate statement of composition) to which has been added flavors considered to be artificial or imitation. In determining whether a flavor is artificial or imitation, recognition will be given to what is consid-

ered to be "good commercial practice" in the flavor manufacturing industry;

(3) Any class or type of distilled spirits (except cordials, liqueurs and specialties marketed under labels which do not indicate or imply, that a particular class or type of distilled spirits was used in the manufacture thereof) to which has been added any whisky essence, brandy essence, rum essence, or similar essence or extract which simulates or enhances, or is used by the trade or in the particular product to simulate or enhance, the characteristics of any class or type of distilled spirits;

(4) Any type of whisky to which beading oil has been added;

(5) Any rum to which neutral spirits or distilled spirits other than rum have been added;

(6) Any brandy made from distilling material to which has been added any amount of sugar other than the kind and amount of sugar expressly authorized in the production of standard wine; and

(7) Any brandy to which neutral spirits or distilled spirits other than brandy have been added, except that this provision shall not apply to any product conforming to the standard of identity for blended applejack.

(k) *Class 11; geographical designations.* (1) Geographical names for distinctive types of distilled spirits (other than names found by the appropriate ATF officer under subparagraph (2) of this paragraph to have become generic) shall not be applied to distilled spirits produced in any other place than the particular region indicated by the name, unless (i) in direct conjunction with the name there appears the word "type" or the word "American" or some other adjective indicating the true place of production, in lettering substantially as conspicuous as such name, and (ii) the distilled spirits to which the name is applied conform to the distilled spirits of that particular region. The following are examples of distinctive types of distilled spirits with geographical names that have not become generic: Eau de Vie de Dantzig (Danziger Goldwasser), Ojen, Swedish punch. Geographical names for distinctive types of distilled spirits shall be used to designate only distilled spirits conforming to the standard of identity, if any, for such type specified in this section, or if no such standard is so specified, then in accordance with the trade understanding of that distinctive type.

(2) Only such geographical names for distilled spirits as the appropriate ATF officer finds have by usage and common knowledge lost their geographical significance to such extent that they have become generic shall be deemed to have become generic. Examples are London dry gin, Geneva (Hollands) gin.

(3) Geographical names that are not names for distinctive types of distilled spirits, and that have not become generic, shall not be applied to distilled spirits produced in any other place than the particular place or region indicated in the name. Examples are Cognac, Armagnac, Greek brandy, Pisco brandy, Jamaica rum, Puerto Rico rum, Demerara rum.

(4) The words "Scotch", "Scots", "Highland", or "Highlands" and similar words connoting, indicat-

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ing, or commonly associated with Scotland, shall not be used to designate any product not wholly produced in Scotland.

(1) *Class 12; products without geographical designations but distinctive of a particular place.* (1) The whiskies of the types specified in paragraphs (b)(1), (b) (4), (b)(5), and (b)(6) of this section are distinctive products of the United States, and if produced in a foreign country, shall be designated by the applicable designation prescribed in such paragraphs, together with the words "American type" or the words "produced (distilled, blended) in", the blank to be filled in with the name of the foreign country: *Provided*, That the word "bourbon" shall not be used to describe any whisky or whisky-based distilled spirits not produced in the United States. If whisky of any of these types is composed in part of whisky or whiskies produced in a foreign country there shall be stated, on the brand label, the percentage of such whisky and the country of origin thereof.

(2) The name for other distilled spirits which are distinctive products of a particular place or country, an example is Habanero, shall not be given to the product of any other place or country unless the designation for such product includes the word "type" or an adjective such as "American", or the like, clearly indicating the true place of production. The provision for place of production shall not apply to designations which by usage and common knowledge have lost their geographical significance to such an extent that the appropriate ATF officer finds they have become generic. Examples are Slivovitz, Zubrovka, Aquavit, Arrack, and Kirschwasser.

[As amended by T.D. ATF-7; T.D. ATF-36; T.D. ATF-37; T.D. ATF-48; T.D. ATF-62; T.D. ATF-66; T.D. ATF-94; T.D. ATF-259; T.D. ATF-324; T.D. ATF-425, effective Mar. 7, 2000.]

¶ 21523]

§ 5.23 Alteration of class and type. (a) *Additions.* (1) The addition of any coloring, flavoring, or blending materials to any class and type of distilled spirits, except as otherwise provided in this section, alters the class and type thereof and the product shall be appropriately redesignated.

(2) There may be added to any class or type of distilled spirits, without changing the class or type thereof, (i) such harmless coloring, flavoring, or blending materials as are an essential component part of the particular class or type of distilled spirits to which added, and (ii) harmless coloring, flavoring, or blending materials such as caramel, straight malt or straight rye malt whiskies, fruit juices, sugar, infusion of oak chips when approved by the Director, or wine, which are not an essential component part of the particular distilled spirits to which added, but which are customarily employed therein in accordance with established trade usage, if such coloring, flavoring, or blending materials do not total more than 2½ percent by volume of the finished product.

(3) "Harmless coloring, flavoring, and blending materials" shall not include (i) any material which would render the product to which it is added an

imitation, or (ii) any material other than caramel, infusion of oak chips, and sugar, in the case of Cognac brandy; or (iii) any material whatsoever in the case of neutral spirits or straight whisky, except that vodka may be treated with sugar in an amount not to exceed 2 grams per liter and a trace amount of citric acid.

(b) *Extractions.* The removal from any distilled spirits of any constituents to such an extent that the product does not possess the taste, aroma, and characteristics generally attributed to that class or type of distilled spirits alters the class and type thereof, and the product shall be appropriately redesignated. In addition, in the case of straight whisky the removal of more than 15 percent of the fixed acids, or volatile acids, or esters, or soluble solids, or higher alcohols, or more than 25 percent of the soluble color, shall be deemed to alter the class or type thereof.

(c) *Exceptions.* (1) This section shall not be construed as in any manner modifying the standards of identity for cordials and liqueurs, flavored brandy, flavored gin, flavored rum, flavored vodka, and flavored whisky or as authorizing any product which is defined in § 5.22(j), Class 10, as an imitation to be otherwise designated.

(2) [Reserved]

[As amended by T.D. ATF-360; T.D. ATF-369, effective Dec. 29, 1995.]

SUBPART Ca—FORMULAS *

¶ 21531]

§ 5.25 Application. The requirements of this subpart shall apply to:

(a) Proprietors of distilled spirits plants qualified as processors under 27 CFR Part 19;

(b) Persons in Puerto Rico who manufacture distilled spirits products for shipment to the United States. Formulas need only be filed for those products which will be shipped to the United States; and

(c) Persons who ship into the United States, Virgin Islands distilled spirits products.

¶ 21532]

§ 5.26 Formula requirements. (a) *General.* An approved formula is required to blend, mix, purify, refine, compound, or treat spirits in a manner which results in a change of character, composition, class or type of the spirits. Form 5110.38 (27-B Supplemental) shall be filed in accordance with the instructions on the form and shall designate all ingredients and, if required, the process used. Any approved formula on Form 27-B Supplemental or Form 5110.38 shall remain in effect until revoked, superseded, or voluntarily surrendered. Any existing qualifying statements as to the rate of tax or the limited use of drawback flavors appearing on a Form 27-B Supplemental are obsolete.

(b) *Change in formula.* Any change in an approved formula shall require the filing of a new Form 5110.38. After a change in a formula is approved, the original formula shall be surrendered to the Director.

* Added by T.D. ATF-62, effective Jan. 1, 1980.

EXHIBIT B

88TH CONGRESS
2D SESSION

S. CON. RES. 19

IN THE SENATE OF THE UNITED STATES

MAY 4, 1964

Ordered to be printed as passed

CONCURRENT RESOLUTION

Whereas it has been the commercial policy of the United States to recognize marks of origin applicable to alcoholic beverages imported into the United States; and

Whereas such commercial policy has been implemented by the promulgation of appropriate regulations which, among other things, establish standards of identity for such imported alcoholic beverages; and

Whereas among the standards of identity which have been established are those for "Scotch whisky" as a distinctive product of Scotland, manufactured in Scotland in compliance with the laws of Great Britain regulating the manufacture of Scotch whisky for consumption in Great Britain and for "Canadian whisky" as a distinctive product of Canada manufactured in Canada in compliance with the laws of the Dominion of Canada regulating the manufacture of whisky for consumption in Canada and for "cognac" as grape brandy distilled in the Cognac region of France, which is entitled to be so designated by the laws and regulations of the French Government; and

Whereas "Bourbon whiskey" is a distinctive product of the United States and is unlike other types of alcoholic beverages, whether foreign or domestic; and

Whereas to be entitled to the designation "Bourbon whiskey" the product must conform to the highest standards and must be manufactured in accordance with the laws and regulations of the United States which prescribe a standard of identity for "Bourbon whiskey"; and

Whereas Bourbon whiskey has achieved recognition and acceptance throughout the world as a distinctive product of the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the recognition of Bourbon whiskey as a distinctive product of the United States be brought to the attention of the appropriate agencies of the United States Government toward the end that such agencies will take appropriate action to prohibit the importation into the United States of whisky designated as "Bourbon whiskey".

○

EXHIBIT C

AGREEMENT IN THE FORM OF AN EXCHANGE OF LETTERS BETWEEN
THE EUROPEAN COMMUNITY AND THE UNITED STATES OF AMERICA
ON THE MUTUAL RECOGNITION OF CERTAIN
DISTILLED SPIRITS/SPIRIT DRINKS

CE/USA

Brussels. 15. III. 1994

Sir,

I have the honour to refer to recent discussions between representatives of the European Community (EC) and the United States of America (USA) relating to the issue of recognition of distilled spirits/spirit drinks. These discussions have resulted in the conclusions outlined hereafter:

- A. The USA agrees to restrict, within its regulatory framework (27 CFR 5.22 or an equivalent successor regulation), the use of the product designations: "Scotch whisky", "Irish whiskey"/"Irish whisky", "Cognac", "Armagnac", "Calvados" and "Brandy de Jerez" to distilled spirits/spirit drinks products of the Member States of the EC, produced in compliance with Council Regulation (EEC) No 1576/89 and with the laws of the Member States in which those products originate. Further, it is recognized that these products shall continue to be subject to all of the labelling requirements of the USA.

- B. The EC agrees to restrict, within its regulatory framework (Council Regulation (EEC) No 1576/89, Article 11 or an equivalent successor regulation), the use of the product designations: "Tennessee whisky"/"Tennessee whiskey", "Bourbon whisky"/"Bourbon whiskey" and "Bourbon" as a designation for Bourbon whisk(e)y to distilled spirits/spirit drinks products of the USA produced in compliance with the laws and regulations of the USA (27 CFR 5.22 or an equivalent successor regulation). Further, it is recognized that these whiskies shall continue to be subject to all of the labelling requirements of the EC.

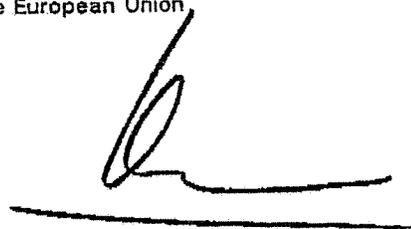
CE/USA/1

- C. The USA and the EC agree to meet at a mutually convenient time in the future to discuss the possibilities of extending restrictive recognition to additional distilled spirits/spirit drinks products which either Party may propose for such consideration. This willingness to meet and consider such requests is without prejudice to the rights and rulemaking processes of either Party.
- D. Both Parties agree to consult, upon request, regarding the operation of this Agreement.
- E. Both Parties agree to implement within sixty days of the date of your confirmatory reply all regulatory or administrative measures necessary to fulfil the obligations outlined in Paragraphs A and B above.
- F. Either Party may terminate this Agreement by written notification to the other Party. This Agreement shall expire twelve months after the date of such notification.

I have the honour to propose that, if the foregoing is acceptable to your government, this letter and your confirmatory reply shall together constitute and evidence an agreement between the EC and the USA on this matter.

Please accept, Sir, the assurance of my highest consideration.

On behalf of the
Council of the European Union



Washington, MAR 25 1994

Sir,

March 15, 1994

I have the honour to refer to your letter of ~~today's date~~ which reads as follows:

"I have the honour to refer to recent discussions between representatives of the European Community (EC) and the United States of America (USA) relating to the issue of recognition of distilled spirits/spirit drinks. These discussions have resulted in the conclusions outlined hereafter:

- A. The USA agrees to restrict, within its regulatory framework (27 CFR 5.22 or an equivalent successor regulation), the use of the product designations: "Scotch whisky", "Irish whiskey"/"Irish whisky", "Cognac", "Armagnac", "Calvados" and "Brandy de Jerez" to distilled spirits/spirit drinks products of the Member States of the EC, produced in compliance with Council Regulation (EEC) No 1576/89 and with the laws of the Member States in which those products originate. Further, it is recognized that these products shall continue to be subject to all of the labelling requirements of the USA.
- B. The EC agrees to restrict, within its regulatory framework (Council Regulation (EEC) No 1576/89, Article 11 or an equivalent successor regulation), the use of the product designations: "Tennessee whisky"/"Tennessee whiskey", "Bourbon whisky"/"Bourbon whiskey" and "Bourbon" as a designation for Bourbon whisk(e)y to distilled spirits/spirit drinks products of the USA produced in compliance with the laws and regulations of the USA (27 CFR 5.22 or an equivalent successor regulation). Further, it is recognized that these whiskies shall continue to be subject to all of the labelling requirements of the EC.

CE/USA/3

- C. The USA and the EC agree to meet at a mutually convenient time in the future to discuss the possibilities of extending restrictive recognition to additional distilled spirits/spirit drinks products which either Party may propose for such consideration. This willingness to meet and consider such requests is without prejudice to the rights and rulemaking processes of either Party.
- D. Both Parties agree to consult, upon request, regarding the operation of this Agreement.
- E. Both Parties agree to implement within sixty days of the date of your confirmatory reply all regulatory or administrative measures necessary to fulfil the obligations outlined in Paragraphs A and B above.
- F. Either Party may terminate this Agreement by written notification to the other Party. This Agreement shall expire twelve months after the date of such notification.

I have the honour to propose that, if the foregoing is acceptable to your government, this letter and your confirmatory reply shall together constitute and evidence an agreement between the EC and the USA on this matter."

I have the honour to confirm that the foregoing is acceptable to the Government of the United States of America and that your letter and this reply shall together constitute and evidence an agreement between the United States of America and the European Community on this matter.

Please accept, Sir, the assurance of my highest consideration.

On behalf of the Government
of the United States of America



Sir,

I have the honour to refer to the Agreement concluded between the European Community and the United States of America on the mutual recognition of certain distilled spirits/spirit drinks and to your letter which proposed the following understanding:

The conclusion of the Agreement does not impede the continued application of the Exchange of Letters, signed on 2 December 1970 and 18 January 1971, between France and the United States of America concerning the protection in France of the US appellations "Bourbon" and "Bourbon whisky" and in the United States of the French appellations "Cognac", "Armagnac" and "Calvados".

I have the honour to confirm the above understanding on behalf of the Government of the United States of America.

Please accept, Sir, the assurance of my highest consideration.

On behalf of the Government
of the United States of America

A handwritten signature in black ink, appearing to be 'M. L. W.', written in a cursive style.

713

NORTH AMERICAN FREE TRADE AGREEMENT
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA,
THE GOVERNMENT OF CANADA
AND
THE GOVERNMENT OF THE UNITED MEXICAN STATES

1993

Annex 313

Distinctive Products

1. Canada and Mexico shall recognize Bourbon Whiskey and Tennessee Whiskey, which is a straight Bourbon Whiskey authorized to be produced only in the State of Tennessee, as distinctive products of the United States. Accordingly, Canada and Mexico shall not permit the sale of any product as Bourbon Whiskey or Tennessee Whiskey, unless it has been manufactured in the United States in accordance with the laws and regulations of the United States governing the manufacture of Bourbon Whiskey and Tennessee Whiskey.
2. Mexico and the United States shall recognize Canadian Whisky as a distinctive product of Canada. Accordingly, Mexico and the United States shall not permit the sale of any product as Canadian Whisky, unless it has been manufactured in Canada in accordance with the laws and regulations of Canada governing the manufacture of Canadian Whisky for consumption in Canada.
3. Canada and the United States shall recognize Tequila and Mezcal as distinctive products of Mexico. Accordingly, Canada and the United States shall not permit the sale of any product as Tequila or Mezcal, unless it has been manufactured in Mexico in accordance with the laws and regulations of Mexico governing the manufacture of Tequila and Mezcal. This provision shall apply to Mezcal, either on the date of entry into force of this Agreement, or 90 days after the date when the official standard for this product is made obligatory by the Government of Mexico, whichever is later.

PROTECTION OF NAMES OF BOURBON WHISKEY
AND CERTAIN FRENCH BRANDIES

Agreement Between the
UNITED STATES OF AMERICA
and FRANCE

Effected by Exchange of Notes
Signed at Paris December 2, 1970, and
January 18, 1971



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89-497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)—

" . . . the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof."

FRANCE

Protection of Names of Bourbon Whiskey and Certain French Brandies

*Agreement effected by exchange of notes
Signed at Paris December 2, 1970, and January 18, 1971;
Entered into force March 19, 1971.*

*The French Minister for Foreign Affairs to the
American Ambassador⁽¹⁾*

LE MINISTRE
DES
AFFAIRES ÉTRANGÈRES

2 DEC. 1970

171CM

MONSIEUR L'AMBASSADEUR,

Le Gouvernement des Etats-Unis a demandé au Gouvernement français, en considération du fait que le "Bourbon Whiskey" est un produit américain typique, dont les caractéristiques sont définies par la réglementation fédérale, d'interdire l'utilisation en France des appellations "Bourbon" et "Bourbon Whiskey" pour désigner tout whiskey ou mélange de whiskeys produit en France et de prohiber la vente en France ou l'exportation hors de France de tout whiskey ainsi étiqueté ou décrit à moins qu'il ne soit produit aux Etats-Unis en conformité de la législation américaine réglementant la fabrication de ce spiritueux.

A l'appui de sa demande, le Gouvernement des Etats-Unis a observé que certaines appellations d'origine d'eaux-de-vie françaises, notamment les appellations "Cognac" et "Armagnac", étaient en fait protégées aux Etats-Unis. Toutefois, le Gouvernement des Etats-Unis n'a jusqu'à présent souscrit à l'égard de la France aucune obligation de continuer à protéger ces appellations sur le territoire des Etats-Unis. Dans ces conditions, le Gouvernement de la République française propose au Gouvernement des Etats-Unis de s'engager à réserver dans le commerce inter-Etats et dans le commerce extérieur des Etats-Unis l'utilisation des appellations "Cognac", "Armagnac" et "Calvados" aux produits français ayant droit à ces appellations en vertu de la législation française existante et à prohiber et réprimer l'utilisation de ces appellations pour tous autres produits,

¹ For the English language text, see p. 3.

même si elles étaient accompagnées de termes tels que "genre", "type", "façon" ou similaires ou de l'indication du lieu de la provenance véritable.

En contre-partie, le Gouvernement français réservera exclusivement l'utilisation, sur le territoire français, des appellations "Bourbon" et "Bourbon Whiskey" au whiskey produit sur le territoire des Etats-Unis en conformité de la législation américaine réglementant la fabrication de ce whiskey et prohibera et réprimera l'utilisation de ces appellations dans l'étiquetage ou la description de tout autre whiskey ou mélange de whiskeys, même si elles étaient accompagnées de termes tels que "genre", "type", "façon" ou similaires.

Les obligations de chaque Gouvernement s'appliqueront aux produits qui seront destinés à l'exportation comme à ceux qui seront destinés à être consommés sur leur territoire.

Le Gouvernement de la République française, dont chacun sait qu'il attache le plus grand intérêt à la protection de ses appellations d'origine, veut espérer que l'attitude positive qu'il adopte au regard de la protection des appellations "Bourbon" et "Bourbon Whiskey" incitera le Gouvernement des Etats-Unis à accepter de considérer favorablement, à l'avenir, dans toute la mesure du possible, la protection d'autres appellations d'origine françaises.

Si les propositions ci-dessus recueillent l'agrément du Gouvernement des Etats-Unis, je suggère que la présente lettre et la réponse de Votre Excellence constituent un accord entre les deux Gouvernements qui entrera en vigueur à l'expiration d'un délai de soixante jours à compter de cette réponse et restera en vigueur sans limitation de durée, sous réserve du droit pour chacune des parties d'y mettre fin en adressant à cet effet un préavis écrit d'au moins trente jours à l'autre partie.

Veillez agréer, Monsieur l'Ambassadeur, les assurances de ma très haute considération.

MAURICE SCHUMANN

Maurice Schumann

S. Exc. Monsieur ARTHUR K. WATSON
Ambassadeur des Etats-Unis d'Amérique
Paris

*The American Ambassador to the French Minister for
Foreign Affairs*

EMBASSY OF THE
UNITED STATES OF AMERICA

PARIS, January 18, 1971

EXCELLENCY:

I have the honor to acknowledge receipt of your Excellency's letter No. 171CM dated December 2, 1970 which is exactly quoted hereinbelow:

"The Government of the United States has requested that the French Government, taking into consideration the fact that 'Bourbon Whiskey' is a distinctive American product the characteristics of which are defined by Federal regulation, prohibit the use in France of the names 'Bourbon' and 'Bourbon Whiskey' for the designation of any whiskey or mixture of whiskeys produced in France, and that it prohibit the sale in France or the export from France of any whiskey labeled or described in such a manner, unless produced in the United States in conformity with American legislation regulating the manufacture of the spirit.

"In support of its request, the United States Government has noted that certain appellations of origin for French brandies, in particular the names 'Cognac' and 'Armagnac', are, in fact, protected in the United States. However, the United States Government has thus far undertaken no obligation to France to continue the protection of these appellations in the territory of the United States. Under these circumstances, the Government of the French Republic proposes that the Government of the United States undertake to reserve the use, in the interstate and foreign commerce of the United States, of the names 'Cognac', 'Armagnac', and 'Calvados' to the French products entitled by virtue of existing French legislation to use those names and to prohibit and repress the use of those names for any other product, even if modified by such terms as 'kind', 'type', 'fashion', or similar expressions, or by an indication of the true place of origin.

"In return, the French Government will reserve the use in French territory of the names 'Bourbon' and 'Bourbon Whiskey' exclusively to whiskey produced in the territory of the United States in conformity with American legislation governing such whiskey and will prohibit and repress the use of those names in the labeling or description of any other whiskey or mixture of whiskeys, even if modified by such terms as 'kind', 'type', 'fashion', or similar expressions.

"The obligation of each Government will extend to products intended for export beyond its territory as well as for consumption therein.

"The Government of the French Republic, which, as is well known, attaches the greatest importance to the protection of its appellations of origin, expresses the hope that the positive attitude which it adopts with regard to the protection of the names 'Bourbon' and 'Bourbon Whiskey' will encourage the Government of the United States to consider favorably, in the future, insofar as possible, the protection of other French appellations of origin.

"If the proposals listed above are acceptable to the Government of the United States, I suggest that this letter, and the letter in reply of Your Excellency, constitute an agreement between the two Governments which will enter into force at the expiration of sixty days from the date of that reply,¹ and will remain in force indefinitely, either Party having the right to terminate it by addressing to the other a written notice to that effect at least thirty days in advance."

On behalf of the Government of the United States, I accept the contents of this letter which constitute an agreement on this subject between the two governments.

I avail myself of this opportunity to renew the assurance of my highest consideration.

ARTHUR K. WATSON

Arthur K. Watson

His Excellency
MAURICE SCHUMANN,
Minister for Foreign Affairs,
Paris.

¹ Mar. 19, 1971.

UNITED STATES – CHILE FREE TRADE AGREEMENT

The Government of the United States of America and the Government of the Republic of Chile, resolved to:

STRENGTHEN the special bonds of friendship and cooperation between their nations;

CONTRIBUTE to the harmonious development and expansion of world trade and provide a catalyst to broader international cooperation;

CREATE an expanded and secure market for the goods and services produced in their territories;

AVOID distortions in their reciprocal trade;

ESTABLISH clear and mutually advantageous rules governing their trade;

ENSURE a predictable commercial framework for business planning and investment;

BUILD on their respective rights and obligations under the *Marrakesh Agreement establishing the World Trade Organization* and other multilateral and bilateral instruments of cooperation;

ENHANCE the competitiveness of their firms in global markets;

FOSTER creativity and innovation, and promote trade in goods and services that are the subject of intellectual property rights;

CREATE new employment opportunities and improve working conditions and living standards in their respective territories;

BUILD on their respective international commitments and strengthen their cooperation on labor matters;

PROTECT, enhance, and enforce basic workers' rights;

IMPLEMENT this Agreement in a manner consistent with environmental protection and conservation;

PROMOTE sustainable development;

CONSERVE, protect, and improve the environment, including through managing natural resources in their respective territories and through multilateral environmental agreements to which they are both parties;

PRESERVE their flexibility to safeguard the public welfare; and

CONTRIBUTE to hemispheric integration and the fulfillment of the objectives of the *Free Trade Area of the Americas*;

HAVE AGREED as follows:

Section E - Other Measures

Article 3.15: Distinctive Products

1. Chile shall recognize Bourbon Whiskey and Tennessee Whiskey, which is a straight Bourbon Whisky authorized to be produced only in the State of Tennessee, as distinctive products of the United States. Accordingly, Chile shall not permit the sale of any product as Bourbon Whiskey or Tennessee Whiskey, unless it has been manufactured in the United States in accordance with the laws and regulations of the United States governing the manufacture of Bourbon Whiskey and Tennessee Whiskey.
2. The United States shall recognize *Pisco Chileno* (Chilean Pisco), *Pajarete*, and *Vino Asoleado*, which is authorized in Chile to be produced only in Chile, as distinctive products of Chile. Accordingly, the United States shall not permit the sale of any product as *Pisco Chileno* (Chilean Pisco), *Pajarete*, or *Vino Asoleado*, unless it has been manufactured in Chile in accordance with the laws and regulations of Chile governing the manufacture of *Pisco*, *Pajarete*, and *Vino Asoleado*.

Section F - Agriculture

Article 3.16: Agricultural Export Subsidies

1. The Parties share the objective of the multilateral elimination of export subsidies for agricultural goods and shall work together toward an agreement in the World Trade Organization to eliminate those subsidies and prevent their reintroduction in any form.
2. Except as provided in paragraph 3, neither Party shall introduce or maintain any export subsidy on any agricultural good destined for the territory of the other Party.
3. Where an exporting Party considers that a non-Party is exporting an agricultural good to the territory of the other Party with the benefit of export subsidies, the importing Party shall, on written request of the exporting Party, consult with the exporting Party with a view to agreeing on specific measures that the importing Party may adopt to counter the effect of such subsidized imports. If the importing Party adopts the agreed-upon measures, the exporting Party shall refrain from applying any export subsidy to exports of such good to the territory of the importing Party.

Article 3.17: Agricultural Marketing and Grading Standards

1. Where a Party adopts or maintains a measure respecting the classification, grading, or marketing of a domestic agricultural good, or a measure to expand, maintain, or develop its domestic market for an agricultural good, it shall accord treatment to a like good of the