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Catherine A. Novelli
Assistant US Trade Representative
For Europe and the Mediterranean
601 17th Street, NW
Washington, DC 20508

Via Electronic Mail (FR0439@ustr.eop.gov)

Dear Ms. Novelli,

JBC International hereby submits comments on the US-EU Economic Partnership on behalf of Wine Institute. Wine Institute is a trade association of over 825 California wineries and affiliated businesses, representing more than 85 percent of the US wine industry and 90 percent of all US wine exports.

As the 2004 U.S.-EU Declaration on Strengthening Our Economic Partnership stated, over the past 50 years the economies of the US and Europe have grown and have become integrated to the benefit of all. As part of efforts to reach the goals laid out in the Declaration, you have asked stakeholders for their ideas for concrete, actionable ideas for transatlantic economic integration, innovation, and job creation. The areas in which the US government is seeking comment include:

- What should be done to better harmonize U.S. and EU regulatory approaches?
- How can the U.S. and EU cooperate more effectively in third markets?
- How to address remaining traditional market access barriers?
- How to ensure equally transparent and full public participation in trade and regulatory policy formulation on both sides of the Atlantic?

The United States is the largest market for European wine. It is the principal agriculture export from the EU to the US with a value exceeding $2 billion. We appreciate this opportunity to provide our industry's insights into this important relationship.

Industry Position

The US-EU Declaration on Strengthening Our Economic Partnership calls on stakeholders to engage in a vigorous discussion of concrete ideas on how to further transatlantic economic integration. As an industry struggling to gain full and fair market access in the EU for a number of years, we support the following key points:

- The EU needs adopt a public notice system in dealing with all wine regulations and should make the opportunity for comment open to any interested party.
- The US and EU needs to work together in the WTO Doha round to eliminate trade barriers. But at the same time, the EU needs to follow though on its commitments to end export subsides in order to ensure fair trade in these key third markets.
- The EU needs to live up to its WTO commitments by eliminating those barriers to take that contradict the rules of the WTO.
- The US and EU need to complete a new bi-lateral wine agreement that will provide the US wine industry with fair market access in Europe.

Introduction

US wine exports have benefited from trade with the European Union. From virtually no exports in 1984, last year we shipped over $488 million of wine to EU member countries. However, that trade is in jeopardy as a result of the continuing barriers to the sale of US wine. Despite the hard work and efforts of our US negotiating team, the governments of the US and EU have not been able to reach an agreement that would provide fair market access for US wines in Europe.

As the joint declaration states, “Trade liberalisation is critical to boosting global prosperity, generating sustained economic growth, and raising living standards. We thus reaffirm their commitment to a multilateral trading system governed by rules.” Unfortunately the EU does not follow the rules of fair trade as established by the World Trade Organization (WTO) in the wine sector. US wines are rejected because they are produced by certain winemaking practices not allowed in the EU (a violation of the WTO’s Sanitary and Phytosanitary Agreement). The EU does not allow US wineries to use certain descriptors on wine labels claiming these terms are reserved exclusively for the winemakers of Europe (a violation of the WTO’s Technical Barriers to Trade Agreement). The EU does not provide any mechanism for the protection of US names of viticultural significance (in violation of their commitments under the WTO Trade Related Aspects of Intellectual Property Right Agreement).

The US-EU Declaration on Strengthening Our Economic Partnership calls on “stakeholders on both sides of the Atlantic to engage in a vigorous discussion of concrete ideas on how to further transatlantic economic integration to the fullest, spur innovation and job creation, and better realise the competitive potential of our economies and enterprises.” Unfortunately that is tremendously difficult for the wine sector when the EU Commission has been so reluctant to consult before issuing restrictive regulations, imposes new labeling requirements without consultations and refuses to open its own market and follow the rules as set out by the WTO.

With that in mind, there are some areas in which improvements can be made to facilitate economic cooperation and integration.

Regulatory Approach

As a part of the US-EU wine negotiations, government representatives have discussed the possibility of more effective communication when developing and changing wine regulations. The US wine industry strongly supports the public notice system used in the US whereby notice of new regulations or changes to existing regulations is published in the Federal Register. Any interested party, whether in the US or overseas, is invited to comment. By contrast, the EU system is not transparent. There is no public notice system used in the EU for new regulations or changes to existing regulations that affect wine. For example, the EU recently issued new wine labeling regulations requiring an allergen warning for sulfites. The US has had such a warning in place for many years. Even with the knowledge of the US requirement the EU regulation states that in English the term must be spelled with a “ph”, sulphites, not an f. With something as simple as the spelling of the word, it seems either spelling should be acceptable.

As a part of the on-going US-EU wine negotiations, the EU has said it will notify the US government of new regulations or changes to existing regulations and allow for comment. It seems odd to the US industry that the US should have to compensate the EU through a bilateral agreement for them to institute what is already required by the WTO. We think the EU needs to follow a public notice type of system in dealing with all wine regulations and should make the opportunity for comment open to any interested party.

Cooperation in Third Markets

The WTO’s Doha negotiations provide an ideal opportunity for wine producers from the US and EU to work together to eliminate trade barriers and high tariffs around the world. By working together, we can put pressure on WTO members to reduce or eliminate their tariffs on wine and dismantle other barriers to the sale of wine. The US and EU wine industries have been working together on this issue for some time and we welcome the opportunities the Doha round of trade negotiations provide.

However, European wine producers have a distinct advantage in many third country markets. Specifically the export subsidies provided to European wine producers that are used to compensate those exports paying the high tariffs. To make European wines more competitive in third country markets, the European Commission provides direct subsides to exporters. This subsidy allows European winemakers to reduce the price of their product to make it more competitive. There is little incentive to seek reduced tariffs and lose this advantage. This comes at the expense of US winemakers who find themselves priced out of the market. European producers get cash payments to make their wines more competitive. So while there is opportunity for cooperation in third countries, the US wine industry is currently at a competitive disadvantage in many of these markets.

Traditional Market Access Barriers

Since the Wine Accords Agreement with the EU was signed in 1984, the US industry and government have been struggling to eliminate traditional market access barriers our wines face in Europe. As detailed in the introduction, US wines face numerous barriers from sanitary and phytosanitary barriers to technical barriers. While the agreement from 1984 allowed US wineries to use many winemaking practices not otherwise permitted in the EU, the EU has been unwilling to approve any new winemaking practice developed after 1984 and not approved for use in the EU. In addition, the EU Commission has refused to engage in a dialogue directly with industry representatives. Rather, when trying to break down a market barrier, the US industry cannot go directly to the Commission but has to take the issue to the US government.

In a nutshell, the EU Commission does not seem keenly interested in trying to resolve traditional market access barriers unless engaged by the US government. The EU Commission only seems willing to discuss resolving technical issues or eliminating traditional market access barriers if they get something in return through a bilateral negotiation.

Transparent Trade and Regulatory Policy Formulation

As the current bi-lateral negotiations have demonstrated, there are a large number of trade and regulatory issues that impact wine trade between the US and EU. The negotiators have made progress in their understanding of wine regulations and the process of policy formulation on both sides. The EU Commission has pledged that it will open the trade and regulatory policy formulation for wine and inform the US government of all new regulations and changes to existing regulations. This is a very positive development.

However, more needs to be done in order to demonstrate good faith and a willingness to engage in regulatory cooperation. The first step is the completion of a new bi-lateral wine agreement that will provide the US wine industry with fair market access in Europe. Next, the dialogue between the US and EU needs to continue and the Commission has to allow the US to provide comment on new regulations or changes to existing regulations. The Commission also needs to take these comments under due consideration. One significant example currently being developed in the EU and the US by its regulatory bodies is the issue of product ingredient and health labeling. The US TTB and the EU DG Health are considering new labeling requirements, yet there is no consultation between the two agencies. We fear that the result will be conflicting requirements that is costly to producers and consumers.

Conclusion

We thank you for the opportunity to provide you with our views on potential areas for cooperation and regulatory policy formation between the US and EU. As our wine exports to Europe increase, our wineries have a greater understanding of the importance of trade and eliminating barriers to trade. We hope that the completion of a new wine agreement will signal and era of further cooperation and collaboration between the US and EU to foster growth on both sides of the Atlantic.

If you have any questions or need more information, please feel free to contact me any time.

Sincerely,

James B. Clawson