April 21, 2009

ITC Hearing
India: Effects of Tariff and Nontariff Measures on U.S. Agricultural Exports

James Gore
Director – JBClawson International

James Gore
jgore@moinc.com
www.jbcinternational.com
202-463-8493

I would like to begin by thanking the Commission for the opportunity to appear before you this morning to provide testimony on this important issue.

My name is James Gore and I am the Director of JBClawson International. JBClawson is an International Trade Consultancy, and we represent, among others, the US Wine Industry on International Affairs, Trade Policy and Emerging Market Development. As a part of this work I and my staff conducted a comprehensive investigation of the Indian Wine Market. This investigation took place from November of 2007 through September of 2008, and included significant time in India identifying trade barriers to US wine and other Agriculture products.

Our investigation led to the publication of this report that I am holding – "A Comprehensive Study of the Indian Wine Market." This report will be made available to the Commission as a part of our post-hearing submissions. Both the report and the reference section offer an in-depth analysis of many of the barriers that I will cover today.

The growth and activity of the Indian wine market (currently valued at $60 million dollars) offers a unique opportunity for US wine exporters to expand the reach and profitability of their portfolios; however, the cumulative effect of duties, taxes, special fees, and the regulations and restrictions on distribution, marketing, consumption and retail sales makes the prospect of selling wine sales in India a complex, costly, and oftentimes frustrating endeavor.

Similarly, if you speak to just about anyone who has tried to export to India, you will hear the all-too-familiar explanation of,

"It's complex and confusing."

Having said that, I will use this time before you today to speak realistically about some of the most harmful trade barriers enacted by The Government of India and/or Indian States.

While some trade barriers are extremely technical or otherwise difficult to identify, there are others that are easy to identify, right up in your face, and extremely damaging to trade flow – such is the case for the Indian Tariff structure on Wine imports.

When further evaluating at the trade policy of India, one must first understand that the Indian government is a highly protectionist regime. As the Indian economy continues to grow at astounding rates, and the resulting consumer class emerges, more and more export-driven countries are working to improve the market access for their products, both agriculture and otherwise, into this expanding market. 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.

Trade Policy disputes have therefore emerged due to the fact that India became a member of the World Trade Organization (WTO) in 1995. As a member of the WTO, India committed itself to specific bound tariff rates for all products. Despite this commitment, India (at both the Federal and State level) has enacted highly protectionist, trade distorting policies that negate their concessions to the WTO and ultimately function as price distorting trade barriers for wine.

At a federal level, the main policy has been to charge customs duties in excess of the bound levels with an emphasis on additional duties, extra additional duties, and other taxes. These fees are charged on top of the basic duty and result in higher-than-agreed-upon-tariffs.

At the state level, India risks multiple WTO disputes due to serious concerns raised by the United States, European Union and other wine producing countries who accuse Indian states of violating the international provisions of National Treatment, whereby "individuals and firms of foreign countries are afforded the same competitive opportunities as are available to domestic individuals and firms. As an example of this dispute, the Excise Department of the state of Maharastra 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 Maharastra State Government has provided an excise tax exemption for local wine producers.

Recent Changes in Customs Duties

On July 3rd, 2007 the government completely eliminated an Additional Customs Duty that had been in force on wines, instead giving its states the power to institute "special fees" on beverage alcohol. During that same time the basic import duty increased from the 100% to 150%. The decision to change this duty structure was made to ease tension in the WTO after the European Union and U.S. filed for dispute settlement hearings against the system. The first Indian state to act on this mandate was Maharastra, whose capitol is Mumbai and leads India in wine production, consumption, and sales. The Maharashtra State Excise Department ultimately settled on a special fee of 200% of the accessible value of the wine.

A Complete Review of the Tariff, Taxes, and Special Fees are as follows:

Federal	
Basic Duty	150%
Extra Additional Duty	4%
Educational Cess	3%
	157%
State	
Special Fee (Excise Tax)	20%-200%
Maharastra	
	157%-357%
VAT	20% (Cumulative-applied at retail)
	200%-600%

Once again, it is complex and confusing

The barriers for wine are by and large designed as cost prohibitive.
If one considers the cumulative effect of the above combination of tariffs, taxes, and special fees, the effect can reach 400% fee increases. If we include Indian mark-ups at the importer, distributor, wholesaler and retailer levels, that amount can double. I found myself quite often looking at a $10 bottle of California Zinfandel in a scolding hot store covered in dust retailing for $80.

Complex, Confusing, and Cost Prohibitive

In our post-hearing submissions, as previously stated, you will find detailed reviews of other trade distorting elements, such as:

Label Registration fees
Requirements of Bank Holdings
Minimum Retail Price
Monopoly Wholesalers
Monopoly Retailers