

EXCISE TAX TREATMENT FOR WINE AND DISTILLED SPIRITS

HEARING
BEFORE THE
SUBCOMMITTEE ON TAXATION AND
DEBT MANAGEMENT GENERALLY
OF THE
COMMITTEE ON FINANCE
UNITED STATES SENATE

NINETY-SIXTH CONGRESS

FIRST SESSION

ON

S. 1913

A BILL TO PRESERVE THE EXISTING TAX STATUS OF WINE
USED IN THE PRODUCTION OF DISTILLED SPIRITS

DECEMBER 19, 1979

Printed for the use of the Committee on Finance



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EXCISE TAX TREATMENT FOR WINE AND DISTILLED SPIRITS

WEDNESDAY, DECEMBER 19, 1979

U.S. SENATE,
SUBCOMMITTEE ON TAXATION AND
DEBT MANAGEMENT GENERALLY,
COMMITTEE ON FINANCE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9 a.m., in room 2221, Dirksen Senate Office Building, Hon. Harry F. Byrd, Jr., chairman of the subcommittee, presiding.

[The press release announcing this hearing and the bill S. 1913 and the description follow:]

[Press Release No. H-77—Corrections, December 11, 1979]

FINANCE SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT SETS HEARING ON S. 1913

Senator Harry F. Byrd, Jr. (I-Va.), Chairman of the Subcommittee on Taxation and Debt Management, announced today that a hearing will be held on December 19, 1979, on S. 1913.

The hearing will begin at 9:00 A.M. in Room 2221 of the Dirksen Senate Office Building.

S. 1913 is sponsored by Senators Cranston, Hayakawa, and Talmadge. It retains the existing excise tax treatment for wine and distilled spirits products by providing a credit for the difference between the current excise tax liability and the excise tax liability which will arise under the all-in-bond method. The all-in-bond method will become effective on January 1, 1980.

It is estimated that this bill will reduce budget receipts by at least \$5 million annually from the amount that would be collected under the all-in-bond method.

This measure will benefit domestic wine producers which process distilled spirits from wine.

Oral testimony.—Witnesses who desire to make oral statements at the hearing should submit a written request to Michael Stern, Staff Director, Committee on Finance, Room 2227 Dirksen Senate Office Building, Washington, D.C. 20510, by no later than close of business, December 17, 1979.

Legislative Reorganization Act.—Senator Byrd stated that the Legislative Reorganization Act of 1946, as amended, requires all witnesses appearing before Committees of Congress "to file in advance written statements of their proposed testimony, and to limit their oral presentations to brief summaries of their argument."

Witnesses scheduled to speak should comply with the following rules:

(1) A copy of the statement must be filed by noon the day before the day the witness is scheduled to testify.

(2) All witnesses must include with their written statement a summary of the principal points included in the statement.

(3) The written statements must be typed on letter-size paper (not legal size) and at least 100 copies must be submitted by the close of business the day before the witness is scheduled to testify.

(4) Witnesses are not to read their written statements to the Subcommittee, but are to confine their oral presentations to a summary of the points included in the statement.

Written testimony.—Written testimony submitted by witnesses not making oral statements should be typewritten, not more than 25 double-spaced pages in length, and mailed with five (5) copies by December 21, 1979, to Michael Stern, Staff Director, Committee on Finance, Room 2227 Dirksen Senate Office Building, Washington, D.C. 20510.

96TH CONGRESS
1ST SESSION

S. 1913

To preserve the existing tax status of wine used in the production of distilled spirits.

IN THE SENATE OF THE UNITED STATES

OCTOBER 19 (legislative day, OCTOBER 15), 1979

Mr. CRANSTON (for himself and Mr. HAYAKAWA) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To preserve the existing tax status of wine used in the production of distilled spirits.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) subpart A of part I of subchapter A of chapter 51 of
4 the Internal Revenue Code of 1954 (relating to distilled spir-
5 its) is amended by adding at the end thereof the following
6 new section:
7 "SEC. 5010. CREDIT FOR WINE CONTENT.
8 "(a) ALLOWANCE OF CREDIT.—

1 “(1) IN GENERAL.—On each proof gallon of the
2 wine content of distilled spirits containing wine, there
3 shall be allowed a credit against the tax imposed by
4 section 5001 (or 7652) equal to the excess of—

5 “(A) \$10.50, over

6 “(B) the rate of tax which would be imposed
7 on such wine under section 5041 but for its re-
8 moval to bonded premises.

9 “(2) FRACTIONAL PART OF PROOF GALLON.—In
10 the case of any fractional part of a proof gallon of the
11 wine content of distilled spirits containing wine, a pro-
12 portionate credit shall be allowed.

13 “(b) TIME FOR DETERMINING AND ALLOWING
14 CREDIT.—

15 “(1) DOMESTIC PRODUCTION.—In the case of
16 distilled spirits produced in the United States, the
17 credit allowable by subsection (a) shall be determined
18 when the wine is dumped for processing and shall be
19 allowable for the return period in which the wine is so
20 dumped.

21 “(2) IMPORTED PRODUCTS.—

22 “(A) IN GENERAL.—In the case of distilled
23 spirits imported or brought into the United States,
24 the credit allowable by subsection (a) shall be de-

1 terminated and allowed when the tax on such dis-
2 tilled spirits is imposed by section 5001 (or 7652).

3 “(B) DETERMINATION OF WINE CON-
4 TENT.—The wine content of imported distilled
5 spirits shall be established by such chemical anal-
6 ysis, certification, or other methods as may be set
7 forth in regulations prescribed by the Secretary.

8 “(c) WINE.—As used in this section, the term ‘wine’
9 does not include—

10 “(1) any substance which has been subject to dis-
11 tillation at a distilled spirits plant after receipt in bond,
12 and

13 “(2) wine containing more than 24 percent of al-
14 cohol by volume.”.

15 (b) The table of sections for such subpart A of part I of
16 subchapter A of chapter 51 of such Code is amended by
17 adding at the end thereof the following new item:

 “Sec. 5010. Credit for wine content.”.

18 SEC. 2. The amendments made by the first se-
19 this Act shall take effect on January 1, 1980.

○

S. 1913—RETAIN EXISTING EXCISE TAX TREATMENT FOR WINE USED IN DISTILLED SPIRITS PRODUCTS

Present law

Under present law, wine is generally subject to the applicable wine tax when it is withdrawn from the bonded wine cellar where it was produced. The excise tax on wine varies according to its alcohol content. For example, still (non-carbonated) wine which contains not more than 14 percent alcohol by volume is subject to a tax of 17 cents per gallon, and still wine which contains between 14 percent and 21 percent alcohol by volume is subject to a tax of 67 cents per gallon.

Wine is presently used in the production of distilled spirits products, such as cordials and liqueurs. When wine is used for this purpose, the applicable wine tax is paid or determined when the wine is withdrawn from the bonded wine cellar for transfer to a distilled spirits plant where it is blended with distilled spirits and flavorings to make the distilled spirits product. The distilled spirits tax on the distilled spirits which become part of a product is similarly imposed (at a rate of \$10.50 per proof gallon) before these components are blended and a 30-cent per proof gallon rectification tax is imposed on the blended product (including the wine component).

Trade Agreements Act of 1979

This Act (Public Law 96-39, approved July 26, 1979) generally implements the trade agreements reached under the multilateral trade negotiations. A part of this legislation equalizes the U.S. tax treatment of U.S. and foreign produced distilled spirits and modernizes the system for imposing and administering the distilled spirits tax. This new system is referred to as the "all-in-bond" method and will become effective on January 1, 1980. Under the all-in-bond method, as it applies to wine used in distilled spirits products, the wine will not be subject to the wine tax. Instead, the wine is transferred without payment of tax to the distilled spirits plant where it becomes part of a distilled spirits product. The distilled spirits tax is then imposed on the completed product, including the wine component. (The 30 cent rectification tax is also repealed under the all-in-bond changes.)

A result of the change to the all-in-bond method is that wine which is included in a distilled spirits product is subject to the \$10.50 per proof gallon distilled spirits tax, rather than the significantly lower total of the applicable wine tax and the rectification tax. For example, wine which is 14 percent alcohol is presently subject to total wine and rectification taxes of 25.4 cents per gallon, but will be subject to a \$2.94 distilled spirits tax under the all-in-bond method. Similarly, wine which is 20 percent alcohol is presently subject to total taxes of 79 cents per gallon, but will be subject to a \$4.20 distilled spirits tax under the all-in-bond method.

Issue

The issue is whether wine which is used in distilled spirits products should be allowed to be taxed under the all-in-bond method at essentially the same rates of tax as are imposed under present law.

Proposal

The bill would provide a credit against excise tax liability under the all-in-bond method for the difference between the distilled spirits tax and the applicable wine tax on this wine if the wine had been subject to the wine tax. The credit would be available only on which which becomes part of a distilled spirits product and would be allowed, in the case of domestically produced distilled spirits products, for the semi-monthly return period when the wine is dumped for processing. This credit would also be available for wine included in distilled spirits products which are produced abroad and imported into the United States and would be allowed at the time the distilled spirits tax is paid.

Effective date

The amendments would become effective on January 1, 1980, the same date when the all-in-bond method becomes effective under Trade Agreements Act of 1979.

Revenue effect

It is estimated that this bill will reduce budget receipts by at least \$5 million annually from the amount that would be collected under the all-in-bond method. The amount by which the revenue loss would exceed the five million dollar figure depends on the increase in the volume of wine used to produce distilled spirits products and on the extent to which the credit may be obtained on wine that is not eventually subject to the distilled spirits tax.

Senator BYRD. The committee will come to order.

The subcommittee will today consider S. 1913, a measure relating to the existing excise tax treatment for wine used in distilled spirits products. The measure is sponsored by the two distinguished Senators from California, Mr. Cranston and Mr. Hayakawa, and by the distinguished Senator from Georgia, Mr. Talmadge, and by the distinguished Senator from Arkansas, Mr. Preyer.

A description of the present law and the proposed change under S. 1913 has been prepared by the Joint Committee on Taxation and shall be included as a part of the record of these hearings. Existing excise treatment for wine used in distilled spirits products will expire at the end of this year and be replaced by the all-in-bond method.

Because we are fast approaching the end of 1979, the committee felt it important to consider this proposal.

I should note that hearings on various other miscellaneous tax measures will be scheduled in the early part of next year and I look forward to the remarks of the Department of Treasury and other witnesses on this measure.

The first witness today is the able Senator from California, Mr. Cranston.

Senator Cranston, we are delighted to have you today, and you may proceed as you wish.

STATEMENT OF HON. ALAN CRANSTON A U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator CRANSTON. Thank you very much, Mr. Chairman.

I want first to thank you for your cooperativeness and thoughtfulness in arranging this hearing on short notice. It is not a convenient matter for you, I know, and I appreciate it very, very much.

I am glad to have this opportunity to appear this morning in support of my bill, S. 1913, which will retain the existing excise tax treatment for wine used in distilled spirits products as a blending agent.

I want to acknowledge the generous support of my colleague from California, Senator Hayakawa, and of Senators Talmadge and Preyer, who are cosponsors of S. 1913.

The primary purpose for our bill is to preserve a significant market for wine used as blending components in the production of cordials, liquors, brandies, whiskeys and the like. The loss of the blending wine market would affect adversely growers of agricultural products used to make wine.

This includes products such as grapes, peaches and other fruits suitable for using in making wine. The problem which S. 1913 addresses results from the enactment of Public Law 96-39, the Trade Agreements Act of 1979.

Section 805 of the Trade Agreement Act equalizes tax treatment of domestic- and foreign-produced distilled spirits. In accomplishing this purpose, section 805 adopted a new system of assessing the excise tax on all distilled spirits—the so-called all-in-bond-method.

Under the new method, wine used as a blender will be taxed on the proof gallon basis rather than the wine gallon basis. Thus, wine, which is 14-percent alcohol, is presently subject to a total

wine and rectification tax of 25.4 cents per gallon, will be subject to a \$2.94 cents distilled spirits tax under the all-in-bond method.

If this were all that were involved, there might be a sound argument for the adoption of the all-in-bond method, but the fact is, wine is considerably more expensive in its bulk form than distilled grain alcohol. It has been the relatively low wine tax which has permitted the use of expensive wine in the production of blended distilled spirits. Obviously, without the tax differential, producers will not be interested in using wine if they can avoid doing so.

I believe the committee will hear testimony on this point later this morning.

The committee also will be informed that the result of ending the market for domestic wines used in blending distilled spirits was not sought by Treasury, or anyone that I know of, who was associated with the Trade Agreements Act of 1979. This was simply an inadvertent consequence of the enactment of that law.

Our bill will not undo the equalization of tax treatment sought by section 805 of the Trade Agreement Act. It secures the wine tax advantage to both domestic and foreign producers. In doing so, it will save a valuable domestic market for American growers, one which will not be offset by any gains achieved for American wines in the Trade Act.

And so, for these reasons, Mr. Chairman, I strongly urge the committee to act, and to seek the bill's enactment, in a prompt and timely manner and that means that there is, as you know, some urgency, which was the reason for having this hearing at this point.

The tax changes go into effect on January 1, 1980, just a few days hence. I do hope the purpose of S. 1913 can be accomplished by that date, and for your efforts to help us do that, I thank you very much.

Senator BYRD. Thank you, Senator Cranston.

Would you give those figures again? The tax would be increased from roughly 25 cents to \$2.93, did you say?

Senator CRANSTON. \$2.92. It is presently 25.4 cents a gallon. It will be subject to a \$2.94 distilled spirits tax under the all-in-bond method, which is a tremendous increase, obviously.

Senator BYRD. More than tenfold.

Senator CRANSTON. As a great advocate of lower taxes, I know that you, Mr. Chairman, will be very helpful in this problem.

Senator BYRD. Thank you, Senator Cranston.

The next witness will be the Congressman from California, the Honorable Tony Coelho. Welcome, Congressman. We are glad to have you.

STATEMENT OF HON. TONY COELHO, A U.S. REPRESENTATIVE FROM THE STATE OF CALIFORNIA

Representative COELHO. I do not have a prepared statement. My purpose here this morning, Senator, is to sort of give you a background of how we are in this situation and let the experts give you the details.

I am a Congressman from the central part of California and have introduced legislation to make the correction here on behalf of the

House side of the California delegation and, as you know, we have 43 Members over there on that side.

Going back to the trade bill, we had been—on the part of the California delegation—trying to get some favorable concessions for the wine industry. Wine, per se, in trying to move in international markets, has all kinds of problems and we were making attempts to get Bob Strauss, at STR, to get some favorable concessions for us.

He was unable to do so. The Ambassador came to the California delegation for breakfast and said that even though he was unable to get some concessions on wine, he wanted us to support the trade bill because it did a lot for other commodities in California. Wine was not helped, he admitted, but it was definitely not hurt. It was not hurt in any way as part of this trade bill.

And then, a day before the trade bill was to be on the House floor, we were told by some people that, indeed, wine was hurt. This was not what Bob Strauss had thought. So we talked to some of the people in Treasury and to some of the staff of the House Ways and Means Committee and the Joint Committee on Taxation. They all agreed that, yes, this provision was in there, to everybody's surprise.

The bill on the House side was not amendable, as you may recall. So Charlie Vanik, the Congressman from Ohio and myself, entered into a colloquy where Mr. Vanik indicated that we did not intend this to happen and we are sorry that it is there, but we will be happy to cooperate with you some time after the trade bill to try to rectify the problem.

As a result of that, we got together with the industry and the Treasury folks and came up with some legislation. I introduced it for the California delegation in the House and Senator Cranston graciously introduced it for us over here on the Senate side.

Since introducing the bill, Treasury has indicated some questions in regards to some of the provisions and our people have met with Joint Committee on Taxation staff people and basically have worked out the problems.

But I want to stress, Senator, that Bob Strauss has said—and we will have a letter on file where the Deputy Trade Ambassador will say, that there was never the intent of the Special Trade Representative, or those people involved with trade, to do this to the wine industry. That it was inadvertent, and basically they support making the correction.

Senator BYRD. What you are saying, I take it, is that the enactment of S. 1913 would not undermine what was negotiated under the MTN.

Representative COELHO. Yes, sir, that is right.

It was not the intent, and Bob Strauss has said so, to us verbally and Alan Wolfe, who was the Special Deputy to Bob Strauss, has said so in writing and that letter will be submitted to the committee this morning for the record.

Senator BYRD. That should be made a part of the record.

Representative COELHO. It will be, by the Wine Institute representative.

Senator BYRD. How will this proposal affect foreign producers?

Representative COELHO. Let me put it this way, Senator. It will not change the current practice. Of course, if you permitted it to go into effect on January 1, and then you changed it after that, there would be a difference, but if you do not permit the law to go into effect, it will not change the current practice and everybody would be treated as is.

I cannot get into specifics, and some of your witnesses will be able to answer that question more specifically.

Senator BYRD. Do you happen to know, or should I address this to another witness, what specific companies are affected by this proposal?

Representative COELHO. I do not know, Senator. It goes all the way from Georgia peach wine to California wines and so forth, so I could not tell you.

I assume it affects several different people and companies in several States of the country.

Senator BYRD. Thank you very much, Congressman.

Representative COELHO. Thank you, Senator.

Senator BYRD. You made a good presentation.

Representative COELHO. Thank you, very much.

Senator BYRD. The next witness will be Mr. John Copeland, Chief, Excise Taxation Office of the Assistant Secretary for Tax Policy for the Department of the Treasury.

Mr. COPELAND. Thank you, Mr. Chairman.

I was supposed to have a written statement to put into the record, but the printing situation seems to have prevented it from being on time, so we will send it up later.

Senator BYRD. That is satisfactory.

Mr. COPELAND. All right.

Senator BYRD. You can just summarize your statement, if you would like.

Mr. COPELAND. Certainly.

**STATEMENT OF JOHN COPELAND, CHIEF, EXCISE TAXATION,
OFFICE OF THE ASSISTANT SECRETARY (TAX POLICY), DE-
PARTMENT OF THE TREASURY**

Mr. COPELAND. The basic effect of the legislation which was in the trade bill as far as distilled spirits is concerned was to equalize the situation for the treatment of alcohol in any product that was taxed as distilled spirits. Previously you had three different tax rates on products that could be mixed to make a distilled spirit.

Certain flavoring materials containing alcohol were taxed at a dollar a proof gallon; wines were taxed at 17 cents or 67 cents a wine gallon, somewhat more on a proof gallon, and then the regular distilled spirits, which comes off the still as whisky or brandy or something like that, was taxed at \$10.50 a proof gallon.

And in the case of imports, there was also the situation whereby if they were imported at less than 100 proof, the tax was \$10.50 a wine gallon, which meant that the tax was more than \$10.50 a proof gallon.

Now, this trade legislation, as far as distilled spirits was concerned, would equalize that situation by making all the alcohol in a product which is called distilled spirits taxable at \$10.50 a proof gallon.

Now, we—

Senator BYRD. What is the highest proof that a wine runs? It doesn't run very high, does it?

Mr. COPELAND. The bulk of it runs 12 to 14 percent alcohol. Double that and you get a proof of 24 to 28.

There are other wines such as port and sherry which have brandy put in them which are 18 to 20 percent alcohol, but I understand that a great deal of the wine that is used in the distilled spirits products is the lower proof wine.

We sent up a report on December 6 on this bill which outlines the Treasury position. We feel that the bill would not be an addition to, or an improvement to, the situation that was put into effect by the legislation that we are talking about.

We have long felt that all of these three products which go into distilled spirits should be treated equally and this is what the bill does—or the law, I should say.

Senator BYRD. Not the bill under consideration today?

Mr. COPELAND. No, the law that went into effect treats them all equally and we think that is the correct way to treat the alcohol that is sold as a distilled spirits product.

Senator BYRD. Well, do you favor or oppose S. 1913?

Mr. COPELAND. We oppose it. We think that the law that was just passed is an improvement over what existed in the past. If you drank whisky, basically, you were paying a higher rate on the alcohol than if you had some of these liqueurs and cordials which had a considerable amount of wine in them, and we did not think that that was a reasonable effect.

If you were buying the wine, as a wine, it was perfectly reasonable to say the wine tax was OK. On the other hand, if you were buying something that is called a distilled spirits product, we felt that that rate should be the same for all of the constituents.

Now, it has been mentioned here that this would affect the wine industry's outlet for wines in cordials and liqueurs and certain other products. Actually, as you can see from the summary handed out, there is very little revenue involved, which indicates that there is not a great deal of wine involved.

As a matter of fact—

Senator BYRD. Well, it affects all wine, does it not?

Mr. COPELAND. Only something around 2 million gallons of wine, so far as we can find out, that is where this \$5 million comes from, would be affected because that is apparently all that is put into distilled spirits products, which would be taxed as a distilled spirit.

This represents something less than, or about, I should say, six-tenths of 1 percent of the output of the wine industry, excluding wine which is substandard or similar to that which is used for making brandy.

In other words, there is something like a little less than 400 million gallons of wine that we would call wine, withdrawn by the industry every year and this is a small, very small, amount that is under consideration.

Senator BYRD. Let me ask you this. Do you confirm or do you question the figure for 14 percent proof wine that the tax would go from 25 cents per gallon to \$2.94 per gallon?

Mr. COPELAND. That is right. That is what happens, when it is put into a distilled spirits product, but not as wine per se.

Senator BYRD. Not as wine per se?

Mr. COPELAND. Right. Wine, per se, still stays at 17 cents. This only affects some 2 million gallons of wine.

Senator BYRD. Wine which is being put into another product, is that it?

Mr. COPELAND. Right, another product.

Senator BYRD. But if it is sold as wine then this does not apply?

Mr. COPELAND. That is right. There is nothing in here which affects wine as such.

Senator BYRD. There is nothing in here which affects wine per se.

Mr. COPELAND. Wine that is sold as wine.

Senator BYRD. Wine that is sold as wine. It only affects the wine that is sold to make another product, such as cordial or brandy.

Mr. COPELAND. Yes, put into a cordial or a liqueur or certain things that we call distilled spirits specialties, mixed cocktails of all kinds, and all kinds of exotic things that I cannot even explain.

Senator BYRD. You have raised concern about the credit mechanism. One of these concerns, as I understand it, is a deferred aspect of the credit, in which the credit will arise before the distilled spirits tax is paid.

First, how does that work, and second, can these problems be resolved between Treasury and the sponsors of the legislation?

Mr. COPELAND. Well, as the bill is drafted, the credit for the wine would be at the time of receipt for dumping, I believe.

Excuse me while I get my copy of the bill out.

[Pause.]

Mr. COPELAND. Yes. It says, time for determining and allowing credit. In the case of domestic spirits, the credit shall be determined when the wine is dumped for processing.

Senator BYRD. What do you mean by "dumped"?

Mr. COPELAND. By dumped, they mean putting into a vat or some sort of container where they are going to mix it with the other distilled spirits.

That is my understanding and this is at the beginning of the manufacturing process.

Senator BYRD. You mean a tax credit would be given before the tax is paid?

Mr. COPELAND. That is our understanding, yes. Quite a while, in some cases, because after the distilled spirits are made, the man who is producing those distilled spirits does not have to pay the tax under the new law until he withdraws those spirits from his bonded premises, and this may be some months later. That is one of our objections to the bill as drafted, yes.

Senator BYRD. Well, now, my second question was, Do you feel that this problem is one that could be resolved?

Mr. COPELAND. I think there could be some adjustment made so that the timing was different. We might say that we think there would be some additional recordkeeping necessary on the part of the proprietors because of this.

Senator BYRD. If you can, if you could stay and let me query other witnesses, we may want to get your judgment after that is done.

Mr. COPELAND. Certainly.
 Senator BYRD. Thank you, Mr. Copeland.
 [The prepared statement of Mr. Copeland follows:]

STATEMENT OF JOHN COPELAND, TREASURY DEPARTMENT OFFICE OF TAX POLICY

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity of presenting the Treasury Department's views on S. 1913.

S. 1913 would amend a provision relating to the tax on distilled spirits which was enacted as part of the Distilled Spirits Tax Revision Act of 1979. This in turn, is part of the Trade Agreements Act of 1979. The Department sent a report on the bill to the Committee on Finance on December 6. The report opposed enactment of the bill because it would be contrary to what we consider a desirable reform in the method of taxing distilled spirits. We also pointed out a number of administrative problems.

While we customarily speak of the tax on distilled spirits products as being \$10.50 a proof gallon, this was not exactly the case under prior law. Tax-paid wine and alcoholic flavoring materials could be added to tax-paid domestic distilled spirits within specified limits. The mixing was subject to a rectification tax of 30 cents a proof gallon, but the net result was that the product, even though sold as distilled spirits, bore a lower tax than \$10.50 a proof gallon. Some domestic cordials and liqueurs containing a large amount of table wine thus had an effective tax rate as low as \$6.50 a proof gallon.

Imported distilled spirits products were taxed solely on their proof content, or wine gallonage if below 100 proof. If below proof, the tax was greater than \$10.50 a proof gallon.

The recent legislation equalized excise taxation for both domestic and imported distilled spirits products. Irrespective of wine or flavoring content, or proof in the case of imports, the tax is to be \$10.50 a proof gallon of the final product as of January 1, 1980. The 30 cent rectification tax is repealed.

It must be emphasized that the change in the law did not change the low rate of tax on wine sold as wine.

We believe the change is only fair and reasonable. All products, domestic and imported, will be taxed on their alcoholic content at the same rate without regard to whether the alcohol is derived from grain or grapes. Consumers of liqueurs, cordials, and so-called specialties no longer will obtain the alcohol at a lesser tax rate than highball consumers. Of course the tax will cause some increase in prices of products formerly taxed at less than \$10.50 a proof gallon, but this is a necessary result of the desired objective.

S. 1913 seeks to reverse the change to a straight proof gallon tax for distilled spirits products when wine is used in the product by allowing a credit to the distilled spirits producer (or importer) for the excess of \$10.50 over the tax that would be levied on the wine if it were taxed as wine. In the case of table wine which is taxed at 17 cents per wine gallon, the credit for wine of 14 percent of alcohol by volume would be \$2.77 a wine gallon. As noted, the credit also would be available for imported products in keeping with the trade agreement.

The significance of the changes in the law for the domestic wine industry would seem to be de minimus. Wine is not used in distilled products merely to save on the excise tax. Many products contain wine as a basic flavoring ingredient. If the producers do not want to have to educate their customers to a new taste, they will continue to use the same, or approximately the same, amount of wine. There are some products, of course, where wine is heavily used to minimize tax. These formulas might well be changed somewhat under the new law. But whatever the change, it can hardly loom large for the wine industry. Furthermore, since wine consumption is growing, any such decrease in use would merely be a very minor temporary slowing of such growth.

According to the statistics of the Bureau of Alcohol, Tobacco and Firearms, only 831,000 proof gallons of wines and vermouth were used in domestic distilled spirits plants in the fiscal year 1978. But 243,000 proof gallons of this input were merely further processed in a fashion that left the final product classified as a wine or vermouth. This processing took a form that was considered rectification which under prior law could be carried out only in a distilled spirits plant. Under the new law, this "rectification" can be carried out in a bonded wine cellar.

The net amount of 588,000 proof gallons of wines and vermouth that was used in distilled spirits products represented slightly more than 2 million wine gallons. In the same 1978 fiscal year, withdrawals of domestic still wine, both taxable and tax-

free, were 375 million gallons. Use of wines in distilled spirits products thus was less than six tenths of 1 percent of total withdrawals.

The proposal of S. 1913 does not represent a great deal of revenue when measured against distilled tax receipts of over \$3.5 billion. We do not have an estimate of how much the revenue loss would be for imported products. As for domestic products, the revenue loss appears to be about \$6 million based on past practice of the industry. Our objection to the bill goes beyond the particular revenue figure. The change in the law that resulted in the taxation of distilled spirits products containing wine on a proof gallon basis also equalized the tax on domestic products containing alcoholic flavoring materials and products imported at below 100 proof. We consider this equalization as a major step forward. The return to an unequal level of taxation as proposed by S. 1913 would represent a step, perhaps the first step, back to a system that was less than equitable.

Senator BYRD. Now, the next will be a panel consisting of Mr. Arthur H. Silverman, Washington counsel, Wine Institute; Dr. Paul Stefan, vice president, Charles Jacquin Et Cie, Inc.; and Mr. Al Wiederkehr, national secretary, American Association of Vintners.

Gentlemen, let's proceed. If you will identify yourselves?

STATEMENT OF ARTHUR H. SILVERMAN, WASHINGTON COUNSEL FOR THE WINE INSTITUTE

Mr. SILVERMAN. Mr. Chairman, my name is Arthur Silverman and I am Washington counsel for the Wine Institute, a trade association which represents 318 winery members and thousands of growers in California.

California produces over 85 percent of the wine produced in the United States and about 70 percent of the wine consumed in this country. I am also speaking today on behalf of the Georgia wine industry and its growers.

The sole purpose of S. 1913 is to preserve the existing tax status of wine used in the production of distilled spirits.

Senator BYRD. You concur, do you, in Mr. Copeland's assertion that this does not apply to wine as such, but only to wine that is sold for cordials or what have you?

Mr. SILVERMAN. Mr. Chairman, yes. This applies only to wine that is used in what we call distilled spirits products, which includes cordials, liqueurs, and some of the others that Senator Cranston and the Congressman referred to. I concur in that.

The wine industry has traditionally sold what we would regard as substantial quantities of wine to distillers and rectifiers who blend the wine with distilled spirits to produce, as I said before, cordials, liqueurs, whiskies, and brandies.

The rectifier or distiller is then taxed—and this is the crux of the problem—on the individual component parts of the product rather than on the finished product itself. He pays a considerably lower tax on the wine component than on the distilled spirits portion because of the lower alcoholic content of the wine.

Depending on its alcoholic content, the wine that is used is subject to a tax of either 17 cents per gallon or 67 cents per gallon. This contrasts very sharply with the tax on distilled spirits of \$10.50 per proof gallon.

Senator BYRD. Wait, I did not get that.

Mr. SILVERMAN. Shall I repeat that, Mr. Chairman?

Senator BYRD. The tax under existing law, that is the law that this bill seeks to correct, the tax would be \$2.94, would it not?

Mr. SILVERMAN. Under existing law, at present, before the trade bill, which would become effective on January 1, the excise tax, as opposed to the rectification tax, would be 17 cents, or 67 cents, depending on the alcoholic content. Over 14 percent would be 67 cents. The table wine tax is 17 cents.

I think some of the confusion may arise from the rectification effect that Senator Cranston and Congressman Coelho referred to.

Senator BYRD. All right.

It is \$2.94.

Mr. SILVERMAN. Yes, working it out on the proof gallon basis. Senator BYRD. That compares with the \$10.50.

Mr. SILVERMAN. Yes. What I am saying is the absolute tax, looking at it in terms purely of excise tax, the distilled spirits tax which everything—the figure you got is based upon the \$10.50 per proof gallon distilled spirits tax. It is worked down to \$2.94.

In view of the administration's repeated assurances that the entire wine gallon proof gallon part of the trade bill in no way adversely affected the wine industry, we were shocked to discover that this highly technical and complex section of this bill, section 805, would inadvertently lead to the elimination of wine in distilled spirits products.

Section 805 would require a tax based solely on the proof of the finished product after bottling, namely, a distilled spirits tax of \$10.50 per proof gallon.

Senator BYRD. Which breaks down to \$2.94 on the wine?

Mr. SILVERMAN. On wine, sir. That is correct.

If this section is not corrected promptly by S. 1913, the wine industry will lose a very important and growing market. Rectifiers and distillers have unanimously claimed that in a relatively short period of time after the January 1, 1980, effective date of the trade bill, wine will no longer be used in the formulation of distilled spirits products.

The reason is purely an economic one, inasmuch as the cost, exclusive of tax, of a unit of alcohol derived from grapes, or wine, is much more expensive than alcohol from grain, wine would assuredly be displaced by distilled spirits.

In turn, a substantially higher full \$10.50 per proof gallon distilled spirit tax would be passed along to the consumer with all of its inflationary aspects.

The sole inducement to rectifiers or distillers of using wine in distilled spirits products is the tax advantage which wine has traditionally enjoyed.

It must be pointed out that the U.S. wine industry is already burdened with a tremendous imbalance in international wine trade. In 1978, wine represented a \$568 million trade deficit, which is 2 percent of the total U.S. trade deficit for that calendar year.

The industry justifiably had hoped for some meaningful concessions from the multilateral trade negotiations, but none were forthcoming. Now we discover that instead of the trade bill expanding our markets abroad, this provision, if it is not promptly corrected, would severely hurt us here at home.

This harmful provision in the trade bill as Congressman Coelho mentioned was not uncovered until July 9 when the trade bill was already on the House floor. The industry and its growers were

faced with an accomplished fact, since the trade bill could not be amended.

On July 10, Chairman Vanik, the floor manager of the bill in the House, conceded that the result was never anticipated by his committee and that we have just become aware of this unintended impact on the wine industry.

He stated that he would like the problem corrected in subsequent legislation. I have made that statement part of my testimony for the record.

Furthermore, Alan W. Wolfe, Chief Deputy to Special Trade Representative Robert Strauss during the trade bill negotiations, recently wrote that he would, "Deeply regret any part of the MTN implementing legislation having an adverse effect on the California wine industry."

He would assume that, "There was no intent on the part of any agency of the Government to revise our taxation of alcoholic beverages in a way that would cause other substances to be substituted for wine in the blending of cordials."

Senator BYRD. How did it become a part of the trade agreement?

Mr. SILVERMAN. We must remember, this arose from the elimination of the wine gallon proof gallon discrimination against bottled imported distilled spirits. The European Economic Community had insisted that this discrimination be eliminated as part of any agricultural concessions.

There was a controversy within the distilled spirits industry. Those who bottled distilled spirits here in this country wanted the discrimination to remain intact. Those who brought bottled imported distilled spirits into this country wanted the discrimination eliminated.

The choice was finally made in favor of the latter, those who brought bottled, imported distilled spirits into this country. Obviously those who bottled here in this country were dissatisfied.

The Treasury Department and Ambassador Strauss, STR, wanted to make—they were very concerned about having the trade bill passed with as little opposition as possible. Various implementing provisions were put in. One was the all in bond.

We, the wine industry, continually during this wine gallon proof gallon question, asked if we were affected. We asked if we were affected by wine gallon, proof gallon or by any of its implementing provisions.

Congressman Coelho, Senator Cranston, and others were assured that we were in no way, affected.

As a matter of fact, one of the implementing provisions that was given to the domestic bottlers, was the extension of the time, I think it was 5 days in 3 consecutive years, up to a total of 15 days, additional time to pay the excise tax, a deferral of the excise tax, period.

The wine industry asked for the same concession—this was while the bill was in the House Trade Subcommittee. We were told specifically, both by STR and Treasury, that nothing in the trade bill affecting wine gallon proof gallon harms you in any way and therefore you are not entitled to this concession. And certainly, if we knew at all about this provision, (a) we would have been in the

Trade Committee; and (b) we would have argued very strongly for this deferral credit that was given to the distilled spirits people.

Senator BYRD. You could not amend the Trade Act?

Mr. SILVERMAN. No, sir, but this was in committee while the Trade Committee was considering it in the House, Chairman Vanik's Trade Committee.

Of course, once this was discovered, the trade bill was on the floor and could not be amended on the floor.

Senator BYRD. Well, then, as I understand it, the proposed change under S. 1913 would provide an excise tax credit for the difference between the tax under the current line tax method as opposed to the tax to be imposed under the all-in-bond method.

Mr. SILVERMAN. That is correct, sir.

Senator BYRD. Now, is it correct that the credit would be obtained before the tax is paid?

Mr. SILVERMAN. Let me speak to that, sir. We met with staff. We have no problem at all in bringing the credit back to the time the tax is actually paid. This provision was put into the bill; we did not write the bill.

We are totally amenable, 100-percent amenable, to bringing the credit forward to a later date. That is no problem to us, and I can tell you right now, without any equivocation, we have no problem with it. We will be willing to, again, agree to any amendment that—

Senator BYRD. Is anyone from Senator Cranston's staff here?

Would that change be satisfactory to Senator Cranston, do you think?

Mr. FLEMING. I can speak for him. It is satisfactory.

Senator BYRD. Thank you.

I think that change definitely ought to be made.

Mr. SILVERMAN. We have no problem with that. I understand there are some other technical objections from Treasury. We have no problem with any of these.

Senator BYRD. What?

Mr. SILVERMAN. I understand there may be one or two more technical objections that Treasury may have. All we want is for our people to be able to sell wine for this purpose.

Senator BYRD. Mr. Copeland, does that take care of some of your problems?

Mr. COPELAND. That part of it, yes.

Mr. SILVERMAN. If the fundamental question is whether wine used in the distilled spirits products should be taxed as distilled spirits, that is an issue for Congress to decide. As far as any of these technical problems are concerned, we want this bill, we need this bill. We have no intention of having any of these technical provisions even exist; it just happened.

Staff has been very cooperative and we certainly would be very cooperative with staff in changing these things immediately.

Shall I finish my statement, or do you have questions.

Senator BYRD. Thank you.

Mr. Copeland, why do you not get together with Senator Cranston's staff and maybe the committee staff and see if you cannot work out some of these problems between you and see if an accept-

able bill could be developed. I think you have worked out a major point.

This has been a major point with you, has it not, Mr. Copeland?

Mr. COPELAND. Time of payment, yes. It is one.

There is another problem with respect to imports which is very important. The problem of determination of what wine is in imports is very difficult, if not impossible.

Senator BYRD. On imports?

Mr. COPELAND. Yes.

Senator BYRD. You are not speaking of imports.

Mr. SILVERMAN. No, I am speaking of the time of the tax credit, at this point. The bill, of course, would give the same credit to imports. That is in the bill and, of course, is necessary to avoid international trade complications.

Shall I finish my statement, or should I address the point he mentioned?

Senator BYRD. Unless you have any new points in there, why do you not just put your statement in the record.

Mr. SILVERMAN. I was just going to add that it is imperative that this problem be corrected by legislation before the end of the year because the Treasury has stated, without equivocation, that unless legislation is passed by the first of the year, it will have no option but to enforce the new tax provision.

This is our concern, and the reason we are here and seeking this legislation.

Senator BYRD. The committee is aware of the time element.

Mr. SILVERMAN. Thank you.

Senator BYRD. Thank you. The committee will take this matter under advisement.

[The prepared statement of Mr. Silverman follows:]

STATEMENT ON BEHALF OF WINE INSTITUTE IN SUPPORT OF S. 1913, DECEMBER 19, 1979

My name is Arthur H. Silverman and I am Washington Counsel for Wine Institute, the trade association which represents 318 winery members and thousands of growers in California. California produces over 85 percent of the wine produced in the United States, and about 70 percent of the wine consumed in this country. I am also speaking today on behalf of the Georgia wine industry and its growers.

The sole purpose of S. 1913 is to preserve the existing tax status of wine used in the production of distilled spirits. The wine industry has traditionally sold substantial quantities of wine to distillers and rectifiers who blend the wine with distilled spirits to produce cordials, liqueurs, whiskies, and brandies. The rectifier or distiller is then taxed, this is the crux of the problem, on the individual component parts of the product rather than on the finished product itself. He pays a considerably lower tax on the wine component than on the distilled spirits portion because of the lower alcoholic content of the wine. Depending on its alcoholic content, the wine that is used is subject to a tax of either 17 cents per gallon or 67 cents per gallon. This contrasts sharply with the tax on distilled spirits of \$10.50 per proof gallon.

In view of the Administration's repeated assurances that the entire wine-gallon/proof-gallon part of the Trade Bill in no way adversely affected the wine industry, we were shocked to discover that a highly technical and complex section of this part—Section 805—would inadvertently lead to the elimination of wine in distilled spirits products. Section 805 would require a tax based solely on the proof of the finished product after bottling, namely, the distilled spirits tax of \$10.50 per proof gallon.

If this section is not corrected promptly by S. 1913, the wine industry will lose a very important and growing market. Rectifiers and distillers have unanimously claimed that within a relatively short period of time after the January 1, 1980 effective date of the Trade Bill, wine will no longer be used in the formulation of

distilled spirits. The reason is purely an economic one. Inasmuch as the cost, exclusive of tax, of a unit of alcohol derived from grapes or wine is much more expensive than alcohol from grain spirits, wine would assuredly be displaced by distilled spirits. In turn, the substantially higher, full \$10.50 per proof gallon distilled spirits tax would be passed along to consumers with all of its inflationary aspects. The sole inducement to rectifiers or distillers of using wine in distilled spirits products is the tax advantage which wine has traditionally enjoyed.

It must be pointed out that the United States wine industry is already burdened with a tremendous imbalance in international wine trade. In 1978, wine represented a \$568 million trade deficit, two percent of the total U.S. trade deficit. The industry justifiably had hoped for some meaningful concessions from the Multilateral Trade Negotiations. None were forthcoming. Now we discover that instead of the Trade Bill expanding markets abroad, this provision, if not promptly corrected, would severely hurt us at home.

This harmful provision in the Trade Bill was not uncovered until July 9, 1979, when the Trade Bill was already on the House Floor. The industry and its growers were faced with an accomplished fact since the Trade Bill could not be amended. On July 10, Chairman Vanik, the Floor Manager of the Bill in the House, conceded that the result was "never anticipated" by his committee, and that "we have just become aware of this unintended impact on the wine industry." He stated that he would like the problem corrected in subsequent legislation. (Please see attachment A.)

Furthermore, Alan W. Wolff, Chief Deputy to Special Trade Representative Robert Strauss during the Trade Bill negotiations, recently wrote that he would "deeply regret any part of the MTN implementing legislation having an adverse effect on the California wine industry." He would assume that "there was no intent on the part of any agency of the Government to revise our taxation of alcoholic beverages in a way that would cause other substances to be substituted for wine in the blending of cordials * * *" (Please see attachment B.)

It is imperative that this problem be corrected by legislation before the end of the year. The Treasury has stated unequivocally that unless legislation is passed by January 1, 1980, it will have no discretion but to enforce the new tax provision.

The language of S. 1913 has been drafted with extreme care. It restores the tax status, and therefore the market, to wine as an ingredient in distilled spirits products by allowing a credit against the distilled spirits tax for the amount of alcohol in the product supplied by wine.

We respectfully urge this Subcommittee to immediately report favorably S. 1913.

July 10, 1979

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ment, customs valuation, and subsidies and countervailing duties. Since the governments with which the United States negotiated were willing to go so far, it is all the more distressing that they refused to accept a safeguards code.

The absence of that code certainly facilitates the giving of no more than lip-service to the obligations toward liberalization of trade which the participants in the MTN seem to embrace. The United States sets a fine example in its attitude toward the liberalization of trade, but in fact the cause of liberalization is not advanced when the United States alone makes the sacrifices. For that reason, it appears premature to seek congressional approval of MTN before conclusion of a safeguard agreement.

With all due respect and, I trust, a full understanding of the need to encourage the flow of trade among countries, we are urging that the Presidential proclamation of June 12, regarding specialty steel quotas, be put in abeyance, both as to the terminal date and as to the periodic increases in the quota, until other countries reach agreement with the United States on safeguard procedures and also agree to remove all quota limitations from all countries regarding trade in specialty steels. The two agreements would promote reciprocity in the interest of equality and honor the spirit of sections 107 and 121 of the Trade Act of 1974.

Mr. Chairman, my only question would be this: Since we do not have the safeguard agreement, may I ask, when might we expect one?

Mr. VANIK. Mr. Chairman, if the gentleman will yield, I certainly hope we will get a satisfactory safeguard quota that can be agreed upon. In our report we urge that that be done. I hope we may have it this fall.

Mr. ATKINSON. Mr. Chairman, I thank the gentleman very much.

Mr. VANIK. Mr. Chairman, at this time I yield such time as he may desire to our distinguished colleague, the gentleman from California (Mr. COELHO).

Mr. COELHO. Mr. Chairman, first of all, I would like to compliment the chairman of the subcommittee, as well as the members of his committee, along with the chairman of the Committee on Agriculture, for the work they have done on this bill.

This has a substantial impact on my district, and we are looking very positively toward its results.

I would like to ask a couple of questions. Mr. Chairman, with regard to the California wine industry which we feel has had an adverse impact as a result of the bill.

Mr. Chairman, if, as a result of his review of foreign tariff and nontariff barriers affecting U.S. exports of alcoholic beverages and particularly wine, the President determines that a foreign country has not implemented concessions to the United States affecting alcoholic beverages designated in the MTN, is the President authorized to withdraw, suspend, or modify the application of U.S. concessions on alcoholic beverages and particularly wine?

Mr. VANIK. Mr. Chairman, if the gentleman will yield, the answer is yes.

Under section 854 of the bill the President would be authorized to take that action to withdraw, suspend or modify substantially equivalent trade agreement benefits to such a foreign country. The same situation pertains to domestic malt beverages which like wine sustain a very substantial trade deficit because of both tariff and nontariff trade barriers to U.S. exports.

Mr. COELHO. Mr. Chairman, I thank the gentleman for his response.

Mr. Chairman, at this time would the gentleman please clarify for the House the intent of a highly technical section of the trade bill relating to the tax treatment of distilled spirits.

I am referring to title VIII, subtitle A, section 803 (all-in-bond method of determining excise tax on distilled spirits).

Unless it is clarified, the language of section 803 could unwittingly and unintentionally cause severe economic loss to our domestic wine industry. Mr. Chairman, the wine industry has traditionally sold large quantities of wine to rectifiers who blend the wine with other alcoholic beverages to create "rectified" products such as cordials, liquors, and flavored brandies. The rectifier is then taxed on the individual component parts of the product rather than on the finished product itself. He pays a considerably lower tax on wine than on distilled spirits because of the lower alcoholic content of wine.

However, section 803 would eliminate an eager market for domestic wine by requiring a tax based solely on the proof of the finished product after bottling, namely, the distilled spirits tax of \$10.50 per proof gallon.

Was it the intent of this section of the trade bill, Mr. Chairman, to undermine the wine industry by drying up a traditional market for its bulk goods which may wineries have come to depend upon?

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Mr. VANIK. My answer to that is, no, the result was never anticipated by our committee. We have just become aware of this unintended impact on the wine industry. And, in light of this factor, I would like for our committee to study the matter, with a goal toward finding some way to provide a means for addressing ourselves to the problem in subsequent legislation.

I am very happy the gentleman called the attention of the committee to this very, very important point.

Mr. CONABLE. Mr. Chairman, will the gentleman yield on that point?

Mr. COELHO. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I think it is important to point out that our wine industry will be substantially benefited by this bill through concessions made by Canada and Japan. Up until this time it has been very difficult to crack the European wine convention, but following enactment of this bill there will be opportunities for promotion of American wine in at least two other foreign countries.

Mr. COELHO. I thank the gentleman for his comments.

I would have to say that, in regard to the Canadian situation, we are talking about a particular type of sweet wine, which is not of tremendous impact to us in the domestic area, and, on the Japanese situation, it is a concession, but it is not a major concession, and the wine industry does not have any significant concession in these negotiations. That is a part of what we are talking about, I appreciate the remarks very much, and I thank the gentleman for his clarification.

Mr. CONABLE. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. SCHULZE), for the purpose of an inquiry.

Mr. SCHULZE. Mr. Chairman, I have asked for this time for the purpose of engaging in a colloquy with the distinguished chairman of the Subcommittee on Trade.

Mr. Chairman, on page 85 of the bill, section 771(12) of the Tariff Act of 1930 provides, for purposes of subtitle A, which concerns countervailing duties, that merchandise shall be treated as the product of the country in which it was manufactured or produced without regard to whether it is imported directly from that country and without regard to whether it is imported in the same condition as when exported, or in a changed condition by reason of remanufacture or otherwise.

Under this legislation, countervailing duties may be imposed when it is determined that a country subject to the MTN agreement is providing a subsidy for exports. However, antidumping duties may be imposed whenever it is determined that foreign merchandise is being sold in the United States at less than fair value, provided there is also injury or threat of injury to U.S. industry.

I am concerned about the following situation. It is my understanding that many foreign companies or enterprises organized and based in one foreign country have adopted the practice of manufacturing part or all of a product in another foreign country, where costs of production may be cheaper, and then importing that product into the United States. I do not believe that a foreign enterprise which receives the benefits of a subsidy or dumping in its home market should escape the application of the U.S. trade laws merely because all or part of the manufacturing process occurs in another foreign country and the product is exported to the United States from that second foreign country.

Is my understanding correct, that it is the legislative intention that the ITC or other administering authority will take account of these factors in administering the trade laws?

Mr. VANIK. If the gentleman will yield, Mr. Chairman, the gentleman from Pennsylvania (Mr. SCHULZE) is correct. A foreign enterprise or multinational company which receives a subsidy from its home government, in its home market, will be subject to countervailing duties, even though, technically, the export to the United States is from a coun-

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[ATTACHMENT B]

VERNER, LIFFERT, BERNHARD & MCPHERSON,
Washington, D.C., December 14, 1979.

Re A tax on wine in cordials.

Mr. WILLIAM B. KELLY, Jr.,
Office of the Special Representative for Trade Negotiations,
Washington, D.C.

DEAR BILL: John DeLuca of the Wine Institute called me today to inquire as to what our intention in the course of drafting the Trade Agreements Act of 1979 was with respect to the change in the method of taxation of wine for use in cordials.

As you know the general wine-gallon issue was addressed primarily by Al McDonald during the hearings. His testimony was, however, largely directed towards the effects of repeal of wine-gallon/proof-gallon, rather than the technical aspects of changes in other provisions affecting taxation of alcoholic beverages. In this regard, we deferred to the Department of Treasury.

I understand, however, that an unintended adverse impact on the California wine industry will result from adoption of the proof-gallon method of taxation on the alcoholic content of cordials. Currently, the wine content is taxed on the basis of total volume.

I would like to make it clear that I do not have a client interest in this subject. I am writing to you because I would deeply regret any part of the MTN implementing legislation having an adverse effect on the California wine industry, after the great pains we went through on behalf of that industry in the negotiations.

John DeLuca informs me that the Senate Finance Committee will be considering remedial legislation next Wednesday. I would assume that there was no intent on the part of any agency of the Government to revise our taxation of alcoholic beverages in a way that would cause other substances to be substituted for wine in the blending of cordials, and that a solution could be worked out to the satisfaction of interested parties.

Thank you for your attention to this matter.

Very truly yours,

ALAN WM. WOLFF.

Senator BYRD. Do you have something new to add?

Why do you not go ahead and present your statement? If you have a statement, we will put it into the record, and why do you not just summarize your views?

STATEMENT OF PAUL STEFAN, SENIOR VICE PRESIDENT, PRODUCTION AND QUALITY CONTROL, CHARLES JACQUIN ET CIE, INC.

Mr. STEFAN. I am Dr. Paul Stefan, senior vice president, production and quality control for Charles Jacquin et Cie, Inc. The Jacquin firm is America's oldest cordial producer, founded in 1884. We are an independent company not owned by a major distiller. Our volume is approximately \$76 million per year and we employ 300 people.

We have two plants, one in Philadelphia, Pa. and one in Auburn-dale, Fla. We believe our volume places us in the middle range of liquor producers in the United States. Our main product line consists of cordials: creme de menthe, creme de cacao, blackberry brandy, amaretto, et cetera.

Over a period of years, we have successfully developed the blending of wines in the production of our cordials. We use 75,000 gallons of wine per year. While wines cost us more per yield of alcoholic content than spirits, we find the character and quality of wines in a cordial enables us to produce a tastier, better product for the consumer.

We have been able to offset the increased cost of using wines by the lower tax rate on them as compared to spirits. Therefore, the

usage of wines enables us to offer an excellent product at a reasonable price. Unless Senate bill 1913 is passed, we will have no choice than to discontinue the use of wines as the cost to our firm would be prohibitive.

Senator BYRD. What would you use in place?

Mr. STEFAN. We would have to supplement with additional extracts or other distilled spirits.

Consequently, the resulting product we will be marketing will have less character than that which we currently market, and our price to the consumer will rise.

We sincerely believe that the revamping of the alcoholic beverage tax laws as a result of the GATT negotiations was designed to give parity to overseas producers of liquor to American producers. We do not feel, however, the intent of the GATT negotiations was to harm the production of cordials in the United States. The impact on a firm like ours is particularly significant as we are not a big distiller with a great deal of our product line in bourbons, Canadians and Scotch which do not use wines.

We do not feel it fair or equitable that overseas producers of liquor should gain from the GATT negotiations and domestic producers of cordials should suffer.

We sincerely believe Senate bill 1913 should be passed from the standpoint of fairness to the American cordial industry as well as compliance with the spirit of the GATT negotiations.

We believe Senate bill 1913 corrects an inadvertent oversight in the revision of alcoholic beverage laws resulting from the GATT negotiations.

Senator BYRD. As a matter of curiosity, what is the most popular cordial today?

Mr. STEFAN. The largest import cordial sold today, Senator, is Kahlua, a coffee liqueur. The largest domestic one, perhaps, I would say today would probably be creme de menthe, the flavored brandies, cacao and Amaretto is very strong.

Senator BYRD. Kahlua is imported from where?

Mr. STEFAN. Presently Kahlua is brought in in containers from Mexico and bottled in Detroit by Mohawk Liquor Corp. after they reduce the alcohol content with water and syrup.

Senator BYRD. What about Drambuie?

Mr. STEFAN. Drambuie is a Scotch liqueur and comes in from overseas and is imported.

Senator BYRD. Is that a popular cordial?

Mr. STEFAN. The second most popular one. I am not a marketing man. I am a production man. However, some of the last figures I saw was Kahlua, No. 1 with close to a million cases and I think No. 2 was Amaretto, selling 700,000 cases.

After that comes Drambuie, Galiano, Cointreau and a few others.

Senator BYRD. Thank you.

The next witness will be Al Wiederkehr, American Association of Vintners.

STATEMENT OF AL WIEDERKEHR, NATIONAL SECRETARY, THE AMERICAN ASSOCIATION OF VINTNERS

Mr. WIEDERKEHR. Sir, my name is Alcuin Wiederkehr and I am the third-generation owner and operator of Weiderkehr Wine Cel-

lars, Altus, Ark. I am secretary and a member of the executive committee of the Association of American Vintners, the trade association that represents 71 vintners from 22 States east of the Rockies. We are very much concerned with the sale of wine and the tax rate for all American wine as established over the years.

I am particularly appearing before you as a vintner and representative of the winegrowers of the southeastern part of the United States. We, along with our competitive friends in the rest of the country, are concerned that, without notice, the Trade Agreements Act of 1979 suddenly encompassed a huge increase in the cost of the wine used in a distilled spirits product by increasing the tax rate on such wine, effectively eliminating the use of any wine in distilled spirits products.

We here in the Southwest are interested in returning the wine tax rate to a reasonable, competitive level most simply because our growers would then be able to increase their acreage and our market should expand. My own State of Arkansas recently has provided incentives to industry coming into our State, including repeal of the 5-cent tax on rectified spirits, and this in turn has enabled a major international producer and distributor of distilled spirits products, most of which use wine as an ingredient, to relocate from within the United States to become one of my neighbors.

Along with many of my southwestern colleagues, I hope to sell an awful lot of wine to Hiram Walker. We need this kind of opportunity, not only here in Arkansas but throughout the eastern part of the United States, at least where we are trying to find a market for our very flavorful eastern grape types, such as our muscidines, which simply need a greater marketplace than would be possible without sales to distilled spirits processors.

While many of our members, large and small, might not be affected by the enactment of this legislation, all of us support the continued and increased use of wine in every legitimate way in this country at the lowest possible rate of taxation. S. 1913 will maintain the traditional wine tax rates on all wine regardless of its ultimate consumption use.

With our continuing requirements to increase the use of grapes and wine in this country and in international trade, we cannot believe that Congress intends to eliminate a market for American wine.

It was our understanding, along with other vintners including the wine institute, that there were no harmful provisions in the Trade Agreements Act of 1979. All we try to do here is to insure that there is no increase, under any circumstances, in the rate of taxation of wine, and promote the increased use of American wine in all legitimate markets.

It is our understanding that the language of S. 1913 was agreed to by the Bureau of Alcohol, Tobacco and Firearms and that the Department of the Treasury supports our goal to continue the tax rate of wine at the traditional wine tax rate.

This can be particularly helpful to many small vintners and growers and we urge you to enact S. 1913 so that its provisions will be effective January 1, 1980, the effective date of the other many provisions of the Trade Agreements Act of 1979.

I would like to point out, in addition, that there are other fruits, such as peaches and apples growing in the southwestern part of the United States that need this ready market. There are many new wineries in Mississippi, Texas, New Mexico, Missouri, Arkansas, and grapes have been planted with the hope of marketing them.

They have borrowed money at high interest rates. It seems here that Treasury does not care about the small or medium-sized winery or the potential small wineries getting into the cordial business.

As an exchange student in Europe, I found that there are many small cordial producers and I think the small wineries in the United States are the bulwark of quality in this country and small cordial producers can well be also.

I do not want the small or medium-sized winery to be put out of business like small breweries were and then Congress had to come back and pass the small breweries act to reduce the tax to encourage competition to come back in the small brewery industry.

I think the medium-sized winery and the small winery may well go the same route if this trend is continued. No one seems to care about the total embargo in many European countries against the United States native wine varieties, and I am speaking of wines such as Concord and Delaware and Niagara.

I would like to at least ship my wine to these countries but they have an absolute total embargo in many of the countries and yet our own Government trade representatives seem more interested in maintaining, or reducing, taxes on our imported wines and beverage alcohol products than they do about helping us.

We do not seem to get very much help at all and here they are concerned about they may overtax these poor folks coming in from Europe with their wines; they fear we may overtax them in the trade agreements. But no one says, how about their total embargo against our wines?

Sure, I can take wines to France—such as Cabernet Sauvignon, which is native to France, but that is like carrying coals to Newcastle. I want to take my Niagara Catawba and Delaware and Concord to Europe.

Some of the European countries have modified their embargoes just recently but there are still many that will not allow any native U.S. wine in.

At least I would like to have my foot in the door. Then we will talk about difference of taxes.

Thank you, sir.

Senator BYRD. Thank you.

I might say that Senator Pryor talked to me last evening. He would have been here today but he has another committee at this same time in which he was heavily involved, but he is very much interested on behalf of the legislation.

Mr. WIEDERKEHR. Senator Bumpers and our four Congressmen are also very much concerned about this.

Senator BYRD. Yes, they have mentioned that.

All right.

Thank you, sir. We were glad to have you today.

Mr. WIEDERKEHR. I appreciate your hearing us.

[The prepared statement of Mr. Wiederkehr follows:]

STATEMENT ON BEHALF OF THE ASSOCIATION OF AMERICAN VINTNERS

My name is Alcuin Wiederkehr and I am the third generation owner and operator of Weiderkehr Wine Cellars, Altus, Arkansas. I am secretary and a member of the executive committee of the Association of American Vintners, the trade association which represents 71 vintners from 22 states east of the Rockies. We are very much concerned with the sale of wine and the tax rate for all American wine as established over the years.

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MEMBERSHIP, ASSOCIATION OF AMERICAN VINTNERS, DECEMBER 1, 1979

Mr. Leslie D. Ackerman, Ackerman Winery, Inc., Box 108, South Amana, IA 52334.

Mr. Matthew J. Antuzzi, Antuzzi's Winery, Box 117, Riverside, NJ 08075.

Mr. Salvo Balic, Balic Winery, Box 25, Mays Landing, NJ 08330.

Mr. A. B. Cribari, Barry Wine Company, 7107 Vineyard Road, Conesus, NY 14435.

Mr. Mark Miller, Benmarl Wine Company, Highland Avenue, Marlboro, NY 12542.

Mr. Jack Aellen, Berrywine Plantations, Box 247, Mt. Airy, MD 21771.

Mr. Phillip Wagner, Boordy Vineyards, Box 38, Riderwood, MD 21139.

Mr. Bernard C. Rink, Boskydel Vineyards, Box 522, Lake Leelanau, MI 49653.

Mr. Ralph Wise, Brushcreek Vineyards, 12351 Newkirk Lane, RR#4, Peebles, OH 45660.

Mr. Arthur Gerold, Bucks County Vineyards, R.D.#1, New Hope, PA 18938.

Mr. William Bret Byrd, Byrd Vineyards, Church Hill Road, Myersville, MD 21773.

Mr. Stafford H. Krause, Canandaigua Wine Company, 116 Buffalo Street, Canandaigua, NY 14424.

Mr. William Wetmore, Cascade Mountain Vineyards, Flint Hill Road, Amenia, NY 12501.

Mr. Thomas Wykoff, Cedar Hill Wine Company, 2195 Lee Road, Cleveland Heights, OH 44118.

- Mr. Anthony P. Debevc, Chalet Debonne Vineyards, 7743 Doty Road, Madison, OH 44057.
- Mr. Alex Christ, John Christ Winery, 34241 Walker Road, Avon Lake, OH 44012.
- Mr. Robert L. Lawlor, Christina Wine Cellars, 123 A Street, McGregor, IA 52157.
- Mr. Ben Feder, Clinton Vineyards, Schultzville Road, Clinton Corners, NY 12514.
- Mr. David S. Tower, Commonwealth Wines, Bldg. #44, Cordage Pk., Court, Plymouth, MA 02360.
- Mr. Arthur Keen, Conestoga Vineyards, 415 S. Queen Street, Lancaster, PA 17603.
- Mr. Robert G. Cowie, Cowie Wine Cellars, Box 284, Paris, AR 72855.
- Mr. Frederick M. Smith, Dodge Cork Company, Box 989, Lancaster, PA 17604.
- Mr. Ludwig Doerflinger, Doerlinger Wine Cellars, 3248 Old Berwick Road, Bloomsburg, PA 17815.
- Mr. Mark Feld, Door Peninsula Vine, Inc., Route 1, Sturgeon Bay, WI 54235.
- Mr. Richard J. Calladonato, DuBois Chemical Co., 511 Walnut St., DuBois Tower, Cincinnati, OH 45202.
- Mr. Arthur H. Miller, Ehrle Bros., Inc., Homestead, IA 52234.
- Mr. Clifford J. Gregory, E & K Wine Company, 220 E. Water Street, Sandusky, OH 44870.
- Mr. Douglas Welsch, Fenn Valley Vineyards, RR#4, 6130 122nd Avenue, Fennville, MI 49408.
- Mr. Robert L. Gloor, Foster Nursery, 69 Orchard Street, Fredonia, NY 14063.
- Mr. Gene Pierce, Glenora Wine Cellars, Glenora-on-Seneca, Dundee, NY 14837.
- Mr. A. E. Weil, Golden Rain Tree Winery, R.R.#2, Wadesville, IN 47638.
- Mr. Willet J. Worthy, Grand River Wine Company, 5750 Madison Road, Madison, OH 44057.
- Mr. Bernard D'Arcy, Gross' Highland Winery, 212 Jim Leeds Road, Absecon, NJ 08201.
- Mr. Sherman P. Haight, Haight Vineyards, Chestnut Hill, Litchfield, CT 06759.
- Mr. Robert S. Hevner, Howard Rotavator Co., Inc., Box 100, Harvard, IL 60033.
- Mr. Gerald E. Huber, Huber Orchard Winery, Box 202, Borden, IN 47106.
- Mr. Charles Milan, Pr., Milan Wineries, Inc., 4109 Joe Street, Detroit, MI 48210.
- Mr. John A. Lombard, I. F. Schnier Company, 683 Brant Street, San Francisco, CA 94107.
- Mr. Allan Klingshirn, Klingshirn Winery, 33050 Webber Road, Avon Lake, OH 44012.
- Mr. Russ Nickels, Krones, Inc., Box 228, Franklin, WI 53132.
- Mr. Walter E. Koehler, Label Craft Company, 640 Merrick Road, Lynbrook, LI, NY 11563.
- Mr. Bobby G. Smith, La Buena Vida Vineyards, WSR Box 18-3, Springtown, TX 76082.
- Mr. David McGregor, Lake Sylvia Vineyards, Route 1, South Haven, MN 55382.
- Mr. Nathan G. Stackhouse, Leelanau Wine Cellars, Box 115, Omena, MI 49674.
- Mr. S. J. Potter, Liqui-Box Company, Box 494, Worthington, OH 43085.
- Mr. Arnulf Esterer, Markko Vineyards, RD 2, South Ridge Road, Conneaut, OH 44030.
- Mr. Edwin Kittle, Gold Seal Vineyards, Route 54 A, Hammondsport, NY 14840.
- Mr. Robert Mazza, Mazza Vineyards, 11815 East Lake Road, North East, PA 16428.
- Mr. Robert G. Gottesman, Meier's Wine Cellars, 6955 Plainfield Pike, Cincinnati, OH 45236.
- Mr. Archie M. Smith, Jr., Meredyth Vineyards, Box 347, Middleburg, VA 22117.
- Mr. William T. Merritt, Merritt Estate Winery, 2264 King Road, Forestville, NY 14062.
- Mr. Arthur Ciocca, Mogen David Wine Corp., 177 Post Street, San Francisco, CA 94108.
- Mr. Larry Star, Monarch Wine Company, 4500 Second Avenue, Brooklyn, NY 11232.
- Mr. William Oliver, Oliver Wine Company, 8024 N. Highway 37, Bloomington, IN 47401.
- Mr. Ben Sparks, Possum Trot Vineyards, 8310 N. Possum Trot Road, Unionville, IN 47468.
- Mr. Doug Moorhead, Presque Isle Wine Cellars, 9440 Buffalo Road, North East, PA 16428.
- Mr. Allan Kinne, Shenandoah Vineyards, Route -2, Box 208-B, Edinburg, VA 22824.

Mr. James B. Pape, Stone Mill Winery, N70 W6340 Bridge Road, Cedarburg, WI 53012.

Mr. David J. Reagan, SWK Machines, Inc., 47 West Steuben St., Bath, NY 14810.

Mr. Len Olson, Tabor Hill Wine Company, Route 1, Box 746, Buchanan, MI 49107.

Mr. Michael Doyle, The Taylor Wine Company, Inc., Hammondsport, NY 14840.

Mr. Joseph Swarthout, The Taylor Wine Company, Inc., Hammondsport, NY 14840.

Mr. William Burgin, Thousand Oaks Vineyard & Winery, Route 4, Box 133, Starkville, MS 39759.

Mr. Charles J. Tomasello, Jr., Tomasello Winery, 225 White Horse Pike, Hammononton, NJ 08037.

Mr. James P. Truluck, Truluck Winery, Drawer 1265, Route 3, Lake City, SC 29560.

Mr. Kenneth Schuchter, Valley Vineyards Farm, 2041 E-US-22+3, Morrow, OH 45152.

Mr. John J. Coleman, Vendramino Wine Cellars, Box 257, Paw Paw, MI 49079.

Mr. Michael Mancuso, Villa Medeo Vineyards/Winery Dugan Hollow Road, RR#2, Madison, IN 47250.

Ms. Phyllis Jean Monroe, Vinterra Farm, 6505 Stocker Road, Houston, OH 45333.

Mr. William Wagner, Wagner Vineyards, R.D.#1, Lodi, NY 14860.

Mr. James J. Warner, Warner Vineyards, 706 S. Kalamazoo St., Paw Paw, MI 49079.

Mr. John J. Canepa, White Mountain Vineyards, R.F.D.#2, Laconia, NH 03246.

Mr. Lawrence E. Mawby, L. Mawby Vineyards/Winery, Box 237, Suttons Bay, WI 49682.

Mr. Al Wiederkehr, Wiederkehr Wine Cellars, Route 1, Box 9, Altus, AR 72821.

Mr. Ronald Ruegge, Zero Manufacturing Co., 811 Duncan Avenue, Washington, MO 63090.

Mr. Peter L. Carp, Widmer's Wine Cellars, 1 Lincoln First Tower, 183 East Main St., Rochester, NY 14604.

Mr. Robert Wollersheim, Wollersheim Winery, Highway 188, Prairie Du Sac, WI 53578.

Mr. Gary Dross, Valley Vineyards, Box 24, Walker Valley, NY 12588.

Mr. Mark Bassel, Enopak Corporation, 474 Thurston Road, Rochester, NY 14619.

Mr. James E. Seewald, Colorado Mountain Vineyards, 15740 West Sixth Avenue, Golden, CO 80401.

Ms. Kathleen Forest, Buckingham Valley Vineyards, Box 371, Buckingham, PA 18912.

Mr. Jim Mitchell, Sakonnet Vineyards, West Main Road, Little Compton, RI 02837.

Mr. Fred Johnson, Johnson Estate Winery, Box 52, Westfield, NY 14787.

Senator BYRD. There being no further business, the committee will stand in recess.

[Whereupon, at 9:45 a.m., the subcommittee recessed, to reconvene at the call of the Chair.]