



Wine and Spirits

I. Overview

As part of its WTO-accession in January 2007, Vietnam has committed to: 1. Reducing the tariff bound rate for alcohol beverage products, and 2. Implementing a Special Consumption Tax (SCT) of either a single “ad valorem” rate or single specific rate for all distilled spirits above 20° abv by January 2010. Under Vietnam’s WTO commitments, tariff bound rates will be reduced as follows:

- Wines: from 65% to 50-55% (50% for still and sparkling wine; 55% for vermouth, cider, perry mead and other beverages) within 5 years, i.e. by January 2012,
- Beer: from 65% to 50% by January 2012,
- Spirits: from 65% to 45% within six years, i.e. by January 2013.

In November 2008, the Vietnamese Government has passed a rate of 45% ad valorem for all domestic and imported distilled spirits above 20° abv to be effective from 1 January 2010. By September 2009, Vietnam has further reduced the import rates as follows:

- Wines: from 62% down to 59%
- Spirits: from 60% down to 55%
- Beer: from 59% down to 53%

EuroCham welcomes the Vietnamese Government’s move towards a single rate for all distilled spirits above 20° abv. Despite this positive tax policy change, EuroCham maintains its position that the Vietnamese Government should implement a single specific SCT rate on all distilled spirits above 20° abv. A single specific rate is:

- non-discriminatory and compliant with WTO rules;
- taxes the alcohol content in the product and does not discriminate with respect to costs or price;
- administratively simple and encourages compliance;
- supports a stable revenue environment; and
- consistent with broader social / health policy initiatives in applying the tax on the amount of alcohol in the product.

If a specific rate cannot be implemented, EuroCham supports an ad valorem rate no higher than the current rate typically applicable on domestic spirits of 30% ad valorem.



II. Key areas of Concern

1. Under-invoicing / under-declaration: The ad valorem structure on domestic spirits will now effectively increase by 50 per cent from a rate of 30% ad valorem to 45% ad valorem in 2010. EuroCham believes that this dramatic increase in the tax burden on domestically produced spirits may encourage some local manufacturers to under-declare the taxable base upon which the SCT is applied (i.e. the ex-factory price) to reduce the resulting tax liabilities. A related practice may be the use of 'marketing' companies in the supply chain where local manufacturers sell at a substantially discounted price to a related marketing entity which then sells it to distributors / wholesalers at a higher and more realistic price level. The SCT is paid on the first and lower valued transaction. The Government should ensure that such trade practices do not occur under the revised scheme and enforce strict sanctions if such practices occur.

2. Equity on the taxable base: Although the SCT rate on imported spirits above 20° abv will significantly fall from 65% to 45%, imported spirits will still be subject to customs duties no lower than 45% ad valorem (by 2013). Customs duties will therefore continue to be a significant supply chain cost for importers. EuroCham believes that the Vietnamese Government should remove the customs duty component as part of the taxable base on imported spirits: the 45% SCT rate should be applicable on the CIF price for importers, excluding customs duties. Only by applying the 45% SCT rate on the CIF price for importers and the ex-factory price for domestic manufacturers will there be fair and equal treatment between foreign and domestic companies.

3. Domestic industry impact: The higher supply chain costs, the likely price increase and the shift of consumers to cheaper alternatives (including non-tax paid alcohol) will adversely impact employment and investment into the domestic spirits industry. EuroCham recommends a 30% ad valorem rate (or its equivalent specific rate) for all spirits above 20° abv to minimise the impact on domestic industry and ensure that it remains a key contributor to the Vietnamese economy.

III. Advertising Restrictions

Vietnam currently prohibits advertising of all alcoholic beverages with alcohol content greater than 15% abv. However, if the alcohol beverage is below 15% abv, advertising is permitted. The Ministry of Culture Sports and Tourism has already submitted a proposal to the Government and the National Assembly to raise this threshold to generally allow advertising for alcoholic beverages with alcohol content of less than 30% abv. EuroCham welcomes this step, as we believe that advertising of alcoholic beverages helps inform consumers and is permitted under non-discriminatory circumstances in most countries around the world. However, EuroCham would welcome the elimination of all discrimination in the advertising activities and an access on equal terms for all



products: Many imported distilled spirits are required by law to be bottled at not less than 40% abv, while most domestically produced spirits in Vietnam are bottled below 39% abv and even 29% abv. Accordingly, even raising the threshold to 30% will result in unfair treatment between imported and locally produced spirits. Accordingly, EuroCham proposes to remove the 30% abv. And generally permit advertising for all alcoholic beverages, regardless of their alcohol content.

IV. Intellectual Property Rights

Because of the growing problem with counterfeit wines and spirits in the Vietnamese market and potential counterfeit issues with regard to imported beer, strong and effective trademark laws – and the enforcement of those laws – are critical. In line with our general position on Intellectual Property Protection in Vietnam, EuroCham encourages the Vietnamese Government to fully implement the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement with regards to trademark protection and consistent enforcement of Intellectual Property Rights in Vietnam.