

PHILIPPINES – TAXES ON DISTILLED SPIRITS
(DS396/DS403)

CLOSING STATEMENT OF THE UNITED STATES OF AMERICA
AT THE FIRST SUBSTANTIVE MEETING OF THE PANEL

NOVEMBER 18, 2010

Mr. Chairman, members of the Panel —

1. On behalf of the United States delegation, I would like to thank you for your time and attention during the first substantive meeting of the Panel in this dispute, and also extend our thanks and appreciation to the Secretariat. We had a lively discussion. We hope it has been useful to the Panel, and provided clarification that the Panel sought on the claims by the United States and the European Union. We appreciate the opportunity to respond to the Panel's questions during this meeting, and look forward to providing additional responses in writing.
2. The co-complainants in this dispute, the European Union and the United States, have presented copious evidence demonstrating that Philippine distilled spirits (whether whiskey, gin, brandy and the like made from local raw materials) compete with their imported counterparts. A Filipino consumer, like most consumers worldwide, considering what product to buy, is likely to consider whether he or she wants a brandy or a gin, and is not thinking about whether one brand was produced from a sugar-based neutral spirit and another was produced from another raw material – particularly since Philippine producers go to great lengths to make their products as similar as possible.
3. The consumer is likely, however, to notice the prices of different brands, and here we can see the result of the discriminatory taxation measures challenged by the co-complainants. In the Philippines, as a result of the discriminatory tax system, imported products are subject to significantly higher taxes that make imported products notably more expensive than they otherwise would be. Philippine products are subject to excise taxes of 13.59 pesos per proof liter, and other spirits are subject to taxes from 146.57 to as high as 587.87 pesos per proof liter. The taxes protect domestic industry and are in violation of the Philippines WTO commitments under Article III:2 of the GATT 1994.
4. Mr. Chairman, members of the Panel, again thank you. This concludes our closing statement. We look forward to responding to your written questions.