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India in 'blatant violation' of WTO rules on whisky duties concludes EU report

Scotch Whisky producers are urging early removal of tax discrimination in India following an EU investigation found 'blatant violations' of WTO obligations in India's tax treatment of imported spirits and wines. The report is a major boost for the Scotch Whisky industry's long term campaign for fair market access to India.

The eight month investigation by the European Commission confirmed India's duty system unfairly distorts competition by subjecting imported bottled spirits to a much higher tax burden - up to 550% on Scotch Whisky - than faced by Indian distillers, with the effect that 'the Indian market has remained essentially closed for imported wines and spirits'.

In a strongly worded report, the Commission notes the refusal of the Indian Government to co-operate with the investigation and recommends that unless India moves to 'rapidly abolish' its discriminatory duty arrangements for whisky and other imported spirits, the EU should swiftly start WTO dispute settlement proceedings in Geneva. Key findings of the investigation included:

- The 'Additional duty' (25%-150%) on imported spirits distorts competition by unfairly exceeding the taxation of local spirits, contrary to WTO rules;
- An 'Extra additional duty' (4%) introduced in 2006 is also unfairly applied to imported spirits, contrary to WTO rules;
- The EU has 'serious concerns' about unfair restrictions on the retail sale of imported spirits in at least five Indian States;
- A recommendation that if India does not take rapid action to reform its fiscal regime, the EU should refer the issue to the WTO.

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Welcoming the report, Gavin Hewitt, SWA Chief Executive, said:

“The Commission’s report is both comprehensive and highly critical of India’s discriminatory duty regime for imported spirits. The EU has identified a number of clear violations of WTO rules, sending a strong message to India that it must reform its fiscal regime at the earliest opportunity.

“The SWA hopes that India will now swiftly bring its fiscal regime into line with international trade rules without the need to resort to a WTO Panel hearing in Geneva. However, if no early change is made, we support the recommendation that the issue should be referred to the WTO.

“Scotch Whisky producers have campaigned for years for fair market access to India. A non-discriminatory duty regime would offer Indian consumers more choice at a reasonable price, boost Indian Government revenue and introduce a fair, level playing field for international producers.”

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Note to Editors:

India is an important emerging market for Scotch Whisky (exports were worth £25.9m in 2005) but access is unfairly restricted by discriminatory duty arrangements which protect domestic spirits and an exorbitant overall duty burden of up to 550% on imported brands. (As a result, Scotch Whisky accounts for less than 1% of India’s 100 million case spirits market.) In contrast, all Indian spirit drinks are imported into the EU tariff free.

The formal European Commission investigation - under the EU Trade Barrier Regulation procedure (No. 3286/94) - was launched in September 2005 following a complaint by European wine and spirits producers, including the SWA. The 104 page report can be accessed at http://ec.europa.eu/comm/trade/issues/respectrules/tbr/cases/ind_alc.htm

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