

Taiwan Beer, Wine And Cigarettes Agreement

AGREEMENT BETWEEN THE AMERICAN INSTITUTE IN TAIWAN AND THE COORDINATION COUNCIL FOR NORTH AMERICAN AFFAIRS CONCERNING BEER, WINE AND CIGARETTES

The American Institute in Taiwan (AIT) and the Coordination Council for North American Affairs (CCNAA) agree that the following guidelines regarding the importation, distribution and sale within Taiwan of beer, wine and cigarettes shall be effective January 1, 1987:

1. Definitions

For purposes of this Agreement:

- A. The "importer" of U.S. wine, beer and cigarettes shall mean the Taiwan Tobacco and Wine Monopoly Bureau (- TTWMB).
- B. "Merchandise" shall mean still and sparkling grape based wines (CCCN 2205 and 2206), coolers and other fermented beverages including non-grape based wines (CCCN 2207), cigarettes (CCCN 2402) and beer (CCCN 2203) product in and exported from the United States and counted for customs statistical purposes as an export from the United States to Taiwan.
- C. "Commercial importer" shall mean exclusive and non-exclusive representatives, distributors, subdistributors, agents, wholesalers and licensed retailers, who have a commercial relationship with a U.S. suppliers of merchandise.
- D. "U.S. suppliers" shall mean producers, export trading ,companies, brokers and other entities which export merchandise.
- E. "Retailer" shall mean an establishment, facility or outlet operated under a valid TTWMB license to sell TTWMB products.

II. Importation Procedures

- A. Commercial importers shall be allowed to import into Taiwan, through TTWMB, the merchandise. A commercial importer may purchase from a number of U.S. suppliers of merchandise. A commercial importer shall be responsible for the performance of and shall direct all functions and activities relating to the importation process, including securing an import permit from the Board of Foreign Trade in the name of TTWMB and letters of credit or other payment documents.
- B. Upon receipt of the following documents from the commercial importer, TTWMB shall, within three working days, stamp or sign the import permit application properly completed by the commercial importer for each shipment of merchandise, without any restriction on price, quantity, brand or style:
 - (1) A valid certificate of registration of profit-seeking enterprise, issued by the appropriate CCNAA authority to the commercial importer;
 - (2) a pro forma invoice setting out the brand (and style, if applicable) of the merchandise to be imported in that shipment, quantity of each brand (and each style, if applicable), and price quotation of each brand (and each style, if applicable);
 - (3) most recent certificate(s) issued by appropriate CCNAA tax authorities, demonstrating that such commercial importer has paid all taxes owed in Taiwan; and

(4) a valid certificate of origin issued by the appropriate state or federal government or semi-government bodies or appropriate chamber of commerce of the United States certifying that all merchandise in that shipment is produced in the, United States.

C. As a condition for formal customs entry into Taiwan of the merchandise, the commercial importer shall provide to the customs officials one copy of a receipt issued by TTWMB confirming that the monopoly tax has been paid in full. Such receipt shall be issued upon payment of the tax.

D. All packing, shipping, insurance, inland transportation, warehousing arrangements, and customs clearance relating to any merchandise imported to Taiwan shall be the sole responsibility of the commercial importer.

E. Import of merchandise shall be cleared through customs expeditiously in accordance with the law and standard procedures and rules.

F. The TTWMB shall complete any inspection within the ten-day period provided for customs inspection under Taiwan law to ensure compliance with:

- (1) The pro forma invoice already submitted to the TTWMB;
- (2) the standards or requirements described, in section VII below;
- (3) the certificate of origin already submitted to the TTWMB.

G. Upon application, TTWMB shall promptly authorize on premise establishments to import the merchandise directly from U.S., suppliers and/or to purchase merchandise from commercial importers without being subject to retail markup limits.

III. Monopoly Tax

A. The TTWMB shall collect on behalf of the CCNAA authorities the monopoly tax from the commercial importer for each shipment of merchandise imported to Taiwan in accordance with normal commercial and financial practices in Taiwan. Such monopoly tax shall be in lieu of applicable import duties, harbor construction fees and commodity taxes. Notification to the Ministry of Finance on a confidential basis by commercial importers of the selling price at all stages throughout the marketing process shall meet the requirements of Article 8. paragraph one, subparagraph 16 of the Business Tax Act, and the Value Added Tax (VAT) shall be exempted. No other fees may be charged by the TTWMB in connection with the import in its name of the merchandise.

B. TTWMB shall be indemnified by commercial importers from liabilities not attributable to its willful default or gross negligence arising from the importation of merchandise. For merchandise which has been certified by the insurer to be so damaged as to be unusable, the TTWMB shall, following receipt of such certification, refund the monopoly tax on that merchandise in cash or by bank cashier's check concurrently upon the delivery by the commercial importer to TTWMB of the goods in question.

C. The monopoly tax shall be assessed at the following rates:

(1) Wine,

NT \$119 per liter;

(2) Wine coolers,

NT \$45 per liter;

(3) Beer,

NT \$30 per liter; and

(4) Cigarettes,

NT \$830 per thousand.

IV. Pricing

A. All prices for each brand or style of the merchandise shall be established solely on the basis of freely competitive market forces in Taiwan. Commercial importers may not be required to provide notification more than ten days in advance to TTWMB of the anticipated retail price at which beer, wine, wine coolers and cigarettes shall be sold or of any changes thereto.

B. CCNAA authorities' regulations shall stipulate the maximum retail margin. Subsequent changes shall be publicized. All regulations shall be applied in a non-discriminatory manner to local products and U.S. merchandise.

C. Except as otherwise provided in the preceding section IV.B, other commercial terms, fees, commissions and price to the retailer shall be determined solely by suppliers and their commercial importers.

V. Warehousing and Distribution

A. Commercial importers shall notify the TTWMB of the location of the warehouses in which imported merchandise is stored within ten days of acquiring the warehouse space.

B. Commercial importers may choose to distribute any merchandise through subdistributors or wholesalers or directly to retailers licensed to deal in such merchandise. No TTWMB licensing or approval may be required for the distributors or wholesalers; provided that if any distributor, subdistributor or wholesaler also engages in the retail of any merchandise, it must also be a retailer licensed to deal in that merchandise.

C. The treatment of imported merchandise sold in duty-free establishments operated by TTWMB shall not, under this Agreement, be any less favorable than accorded such merchandise prior to January 1, 1987.

D. Imported merchandise shall be permitted to be sold at all establishments at which TTWMB products are sold. No additional or separate TTWMB license or authorization may be required for imported merchandise to be sold at these establishments,

VI. Advertising and Promotion

A. Cigarette samples may be restricted to stick by stick distribution.

B. Point of sale promotions including displays, signs* posters, samples, gifts, gifts with brands, leaflets and tastings shall be permitted at each wholesale, distribution, and retail establishment at the place of business given in its certificate of registration of profit-seeking enterprise issued by the appropriate authorities, including on premise establishments.

C. Special promotions shall be permitted but commercial importers may be required to provide 30-day prior notification to the TTWMB of the activity or event planned.

D. Advertisements in magazines and newspapers for beer and wine shall be permitted, Each manufacturer of cigarettes may be limited to 120 advertising placements in magazines during each calendar year.

E. Other sales promotional and advertising activities similar to those conducted by TTWMB may be carried out for imported merchandise.

F. TTWMB may not impose financial limits on the above activities.

VII. Labeling and Packaging

A. Cigarettes: A health warning shall appear on each pack of cigarettes. The warning shall be in the Chinese language on the side of the package and shall be identical to the text of the TTWMB health warning. The typesize, typeface and format shall be essentially equivalent to the current TTWMB health warning. Date of packaging shall be on the inside foil of each pack of cigarettes in industry accepted nomenclature. The nomenclature key shall be given to CCNAA.

B. Beer: The date on which the product is inserted in its container shall be visible on the bottom of each retail container in industry accepted nomenclature. The nomenclature key shall be given to CCNAA. U.S. firms way ship beer products to Taiwan in their containers as produced in the United States without change.

C. Wine: Retail containers shall be labeled to provide an accurate description of the product.

VIII. Penalties

In the event of suspected noncompliance with these guidelines by commercial importers, TTWMB shall notify in writing the suspected violator of the alleged violation, the time period within which such violation must be corrected or discontinued, and the penalty to be imposed by TTWMB should the violation not be corrected or discontinued within that time period. A determination by TTWMB of any penalty shall be guided by the applicable laws and regulations. CCNAA and AIT. shall consult before the imposition of any penalty which has the effect of preventing the importation or distribution of U.S. beer, wine and cigarettes.

IX. Consultations

A. AIT and CCNAA agree to consult promptly at the written request of either party on any matter relating to the sale of U.S. merchandise in Taiwan.

B. CCNAA reserves the right to change the status of TTWMB as well as laws and regulations governing TTWMB whenever it deems appropriate. in the event that the status of TTWMB as described in this Agree-ment is modified, AIT and CCNAA shall consult prior to such modifications to ensure that the market access provided for under this Agreement is not impaired and that any new laws and regulations in Taiwan shall be applied in a nondiscriminatory manner.

Done, in-duplicate at Washington, D.C. this 12th day of December, 1986.

For the American Institute in Taiwan

David Dean

Chairman of the Board and Managing Director

For the Coordination Council for North American Affairs

Dr. Fredrick F. Chien

Representative

AMERICAN INSTITUTE IN TAIWAN

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October 16, 1991

Mr. Ding Mou-shih

Representative

Coordination Council for

North American Affairs

4201 Wisconsin Avenue, N.W.

Washington, DC 20016-2137

Dear Mr. Ding:

I have the honor to acknowledge receipt of your letter of October 7, 1991, and Annex A, which read as follows:

QUOTE. Dear Ambassador Bellocchi:

I have the honor to refer to the scheduled consultations held in Taipei between AIT and CCNAA of July 9 and 10, 1991 pursuant to Article IX(A) of the 1986 Beer, Wine and Cigarettes Agreement between the Authorities represented by CCNAA and by AIT, regarding the new requirements for health warning legends on cigarettes sold in the territory represented by CCNAA (the "CCNAA Territory").

On behalf of the Authorities represented by CCNAA ("CCNAA Authorities"), I confirm the following points regarding the implementation of this new requirement, agreed upon by and between CCNAA and AIT:

- (a) In order to provide an adequate transition period for the design, production and shipping of the product with the new legends, the requirements set forth herein will apply to U.S. cigarettes produced after June 3, 1992 and imported into the CCNAA Territory for circulation.
- (b) Cigarettes produced before June 3, 1992 and complying with the health warning requirements in effect immediately before that date in the CCNAA Territory, will be permitted to be sold in the CCNAA Territory until March 31, 1993 circulation of such cigarettes after April 1, 1993 shall be subject to seizure and destruction by the CCNAA Authorities.
- (c) Every single pack of cigarettes introduced into the CCNAA Territory by a producer shall have one of the six health warnings ("Health Warnings"), samples of which are set forth in Annex "A" hereto (hereinafter each of the six texts shall be referred to as a "Health Warning Text"), printed directly onto the paper wrapping of the front of each cigarette pack in number five size Chinese characters in black or dark color on a light background so as to ensure that the Health Warning Text will be clearly and distinctively shown on each pack. The text of a Health Warning used shall be enclosed within a black or dark colored border, and the area enclosed within the border shall measure at least 5 cm. by 2 cm. of the front of the pack. No characters or symbols other than the Health Warnings shall appear within the border.
- (d) Each producer, in complying with the requirement of paragraph (c) of this letter that each pack of cigarettes shall bear one of the six Health Warning Texts, shall rotate the Health Warning Text used by it on individual packs of each brand of cigarettes produced by it, so that in any twelve-month period, each one of the six different Health Warning Texts will appear on approximately an equal number (plus or minus 15%) of the cigarette packs of each brand introduced by it into the CCNAA Territory for circulation.
- (e) In the event that a producer of cigarettes intends to adopt a rotational system different from that set forth in paragraph (d), above, such producer shall consult the Ministry of Economic Affairs of the CCNAA Authorities for approval of such a different rotational system; the producer shall always adhere to the principle that each of the six Health Warning Texts shall be rotated in a given period as evenly as commercially practicable.
- (f) In the event that the total number of cases of a particular brand imported into the CCNAA Territory does not exceed one thousand cases in a 12-month period, the producer may, upon notification to the CCNAA Authorities of the designated 12-month period (which, once designated, may not be changed, print the Health Warning Text # 3 (THIS SHOULD INCLUDE THE CHINESE WRITING)* on all packs of that brand in lieu of a rotation system. Where, contrary to the producer's original forecast, imports into the CCNAA Territory of that brand in such designated 12-month period exceeds one thousand cases, the amount of such excess shall be subject to the rotational requirements provided in paragraphs (c) and (d) above.
- (g) The Taiwan Tobacco and Wine Monopoly Bureau will be subject to substantially equivalent rotational health warning requirements as producers of imported cigarettes. Pursuant to the consultations held under the 1986 Beer, Wine and Cigarettes Agreement, the Authorities represented by AIT & CCNAA agree to the foregoing new system of health warning requirements, subject to the conditions outlined in this letter.

If the content of this letter is acceptable to your authorities, this letter together with your reply, shall constitute an agreement between AIT and CCNAA. This agreement shall enter into force upon your reply.

Sincerely yours,

Mou-shih Ding

Representative

*Freely translated into English, it means "the Department of Health, of the Executive Yuan warns that cigarette smoking may cause lung cancer, cardiovascular disease, and emphysema".

[Please note that Annex A has not been included in the electronic version of this document.]

END QUOTE

Your letter correctly reflects the understandings reached during the course of our consultations of July 9 and 10, 1991, pursuant to Article IX (A) of the 1986 Beer, Wine and Cigarettes Agreement between the authorities represented CCNAA and AIT.

Sincerely,

Natale H. Bellocchi

Chairman of the Board

and Managing Director

AMERICAN INSTITUTE IN TAIWAN

TAIPEI

7. LANE 134, HSIN YI ROAD, SEC3. TAIPEI, TAIWAN

TELEPHONE: 709-2000 CABLE: AITTAIWAN TAIPEI

April 29, 1987

AIT B-301

Mr. Raymond S. H. Hoo

Chairman

Coordination Council for

North American Affairs

133, Po Ai Road, Taipei

Dear Mr. Hoo,

I am writing with regard to the AIT-CCNAA agreement on beer, wine and cigarettes, signed in Washington, D.C. on December 12, 1986 and effective January 1, 1987.

On the requirements for Monopoly certificates to be affixed to the Merchandise, I wish to propose the procedures set out below, which shall take effect retroactively as of January 1, 1987:

(a) In the case of beer and wine, the Monopoly Certificates shall be affixed to each can and bottle, or printed on labels to be affixed to each can and bottle, or embossed- on each can of beer, either in Taiwan (including in bonded warehouses) before the Merchandise goes through customs clearance or in the United states. The Monopoly Certificate so affixed need not show the Commercial Importer's Registration Number.

(b) In the case of cigarettes, the "banderols" shall be replaced with the Monopoly Certificate of the same size as is the "banderols", and the past practice applicable to banderols shall be followed in affixing the Monopoly Certificate to each pack of cigarette.

(c) With regard to the classification of non-grape based wines, CCNAA will classify these products in the same category as wine coolers when assessing the monopoly tax.

I would appreciate, confirmation of CCNAA's agreement to the foregoing.

Sincerely,

Scott S. Hallford

Acting Director

COORDINATION COUNCIL FOR NORTH AMERICAN AFFAIRS

133 PO AI ROAD, TAIPEI, TAIWAN

REPUBLIC OF CHINA

TEL. 311-9212

Ref No: (76) CCNAA 0640

April 29, 1987

Mr. Scott S. Hallford

Acting Director

American Institute in Taiwan

Taipei Office

7, Lane 134, Hsin Yi Road, Sec. 3

Taipei

Dear Mr. Hallford:

I have the honor to acknowledge receipt of your letter (AIT B-301) of today's date, which reads as follows:

"Dear Mr.-Hoo:

I am writing with regard to the AIT-CCNAA Agreement on beer, wine and cigarettes, signed in Washington, D.C. on December 12, 1986 and effective January 1, 1987. On the requirements for Monopoly Certificates to-be affixed to the Merchandise, I wish to propose the procedures set out below, which shall take effect retroactively as of January 1, 1907:

(a) In the case of beer and wine, the Monopoly Certificates shall be affixed to each can and bottler or printed on labels, to be affixed to each-can and bottle, or embossed on each can of beer, either Taiwan (including in bonded warehouses)., before the Merchandise goes through customs or clearance or in the United States, The Monopoly Certificate so affixed heed not show the Commercial Importer's Registration Number.

(b) In the case of cigarettes, the "banderols" shall be replaced with the Monopoly Certificate of the same size as is the banderols, and the past practice applicable to banderols shall be followed in affixing the Monopoly Certificate to each pack of cigarette.

(c) With regard to the classification of non-grape based wines, CCNAA will
classify these products in the same category as wine coolers when assessing the monopoly tax.

I would appreciate confirmation of CCNAA's agreement to the foregoing.

Sincerely, (Signed)

Scott S. Hallford"

In reply, I have-the pleasure to confirm that CCNAA agrees to the above proposals in you letter.

Sincerely yours,

Raymond S.H. Hoo

Chairman

TANC offers these agreements electronically as a public service for general reference. Every effort has been made to ensure that the text presented is complete and accurate. However, copies needed for legal purposes should be obtained from official archives maintained by the appropriate agency.