

**TRADE**

**Distinctive Products**

**Agreement Between the  
UNITED STATES OF AMERICA  
and BRAZIL**

Effected by Exchange of Letters at  
Washington April 9, 2012



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966  
(80 Stat. 271; 1 U.S.C. 113)—

“ . . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

**BRAZIL**

**Trade: Distinctive Products**

*Agreement effected by exchange of letters  
at Washington April 9, 2012;  
Entered into force April 9, 2012.*

EXECUTIVE OFFICE OF THE PRESIDENT  
THE UNITED STATES TRADE REPRESENTATIVE  
WASHINGTON, D.C. 20508

April 9, 2012

His Excellency Fernando Damata Pimentel  
Minister of Development, Industry and Foreign Trade  
Gabinete de Ministro  
Esplanada dos Ministérios, Bloco J, 6º andar  
CEP 70053-900  
Brasília – DF – Brazil

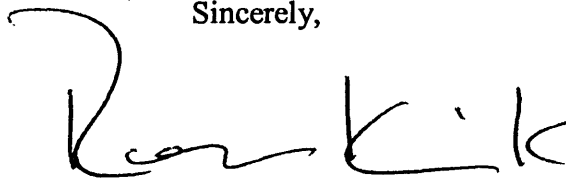
Dear Minister:

I have the honor to confirm the following understandings reached between representatives of the Government of the United States of America and the Government of the Federative Republic of Brazil (the “Parties”) regarding certain distinctive products:

- A. The United States shall endeavor to publish a *Notice of Proposed Rulemaking* in which it will propose to promulgate a regulation or regulations that would provide that *Cachaça* is a type of rum that is a distinctive product of Brazil, and that the sale in the United States of any product as *Cachaça* is not permitted unless it has been manufactured in Brazil in accordance with the laws and regulations of Brazil governing the manufacture of *Cachaça*. The *Notice of Proposed Rulemaking* would further propose that *Cachaça* need not be labeled as “rum.” The Parties note the following difference in their respective classifications of *Cachaça*: the United States proposes to classify *Cachaça* as a type of rum, whereas, according to Brazilian law, *Cachaça* is a type of *Aguardente de Cana*.
- B. If, following the publication of the *Notice of Proposed Rulemaking*, the United States publishes a *Final Rule* announcing that it will promulgate a regulation or regulations of the type referred to in Paragraph A, Brazil shall, within thirty (30) days thereafter, recognize *Bourbon Whiskey* and *Tennessee Whiskey*, the latter being a straight Bourbon Whiskey authorized to be produced only in the State of Tennessee, as distinctive products of the United States. In accordance with such recognition, Brazil shall not permit the sale in Brazil of any product as *Bourbon Whiskey* or *Tennessee Whiskey*, unless it has been manufactured in the United States in accordance with the laws and regulations of the United States governing the manufacture of *Bourbon Whiskey* and *Tennessee Whiskey*. (This Paragraph also applies to these products when they are spelled as “Bourbon Whisky” or “Tennessee Whisky.”)

- C. I have the honor to propose that this letter, and your letter in reply confirming that your Government shares these understandings, shall together constitute an agreement between our two Governments, to enter into force on April 9, 2012.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Kirk". The signature is fluid and cursive, with a large initial "R" and a distinct "K".

AMBASSADOR RON KIRK  
United States Trade Representative

April 9, 2012

The Honorable Ron Kirk  
United States Trade Representative  
600 17<sup>th</sup> Street, NW  
Washington, DC 20508

Dear Ambassador Kirk:

I have the honor to refer to your letter of April 9, 2012, which reads as follows:

*I have the honor to confirm the following understandings reached between representatives of the Government of the United States of America and the Government of the Federative Republic of Brazil (the "Parties") regarding certain distinctive products:*

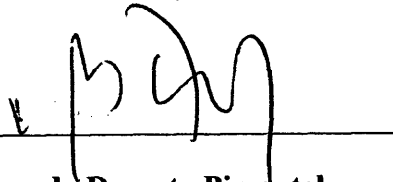
*A. The United States shall endeavor to publish a Notice of Proposed Rulemaking in which it will propose to promulgate a regulation or regulations that would provide that Cachaça is a type of rum that is a distinctive product of Brazil, and that the sale in the United States of any product as Cachaça is not permitted, unless it has been manufactured in Brazil in accordance with the laws and regulations of Brazil governing the manufacture of Cachaça. The Notice of Proposed Rulemaking would further propose that Cachaça need not be labeled as "rum." The Parties note the following difference in their respective classifications of Cachaça: the United States proposes to classify Cachaça as a type of rum, whereas, according to Brazilian law, Cachaça is a type of Aguardente de Cana.*

*B. If, following the publication of the Notice of Proposed Rulemaking, the United States publishes a Final Rule announcing that it will promulgate a regulation or regulations of the type referred to in Paragraph A, Brazil shall, within thirty (30) days thereafter, recognize Bourbon Whiskey and Tennessee Whiskey, the latter being a straight Bourbon Whiskey authorized to be produced only in the State of Tennessee, as distinctive products of the United States. In accordance with such recognition, Brazil shall not permit the sale in Brazil of any product as Bourbon Whiskey or Tennessee Whiskey, unless it has been manufactured in the United States in accordance with the laws and regulations of the United States governing the manufacture of Bourbon Whiskey and Tennessee Whiskey. (This Paragraph also applies to these products when they are spelled as "Bourbon Whisky" or "Tennessee Whisky.")*

*C. I have the honor to propose that this letter, and your letter in reply confirming that your Government shares these understandings, shall together constitute an agreement between our two Governments, to enter into force on April 9, 2012.*

I have the honor to confirm that my Government shares the understandings expressed in your letter and that your letter and this reply shall together constitute an agreement between our two Governments, to enter into force on April 9, 2012.

Sincerely,

A handwritten signature in black ink, appearing to be 'F. Damata Pimentel', written over a horizontal line.

**Fernando Damata Pimentel**  
Minister of Development, Industry and Foreign Trade