PR PUNDIT

SCOTCH WHISKY ASSOCIATION

Tariff Liberalisation

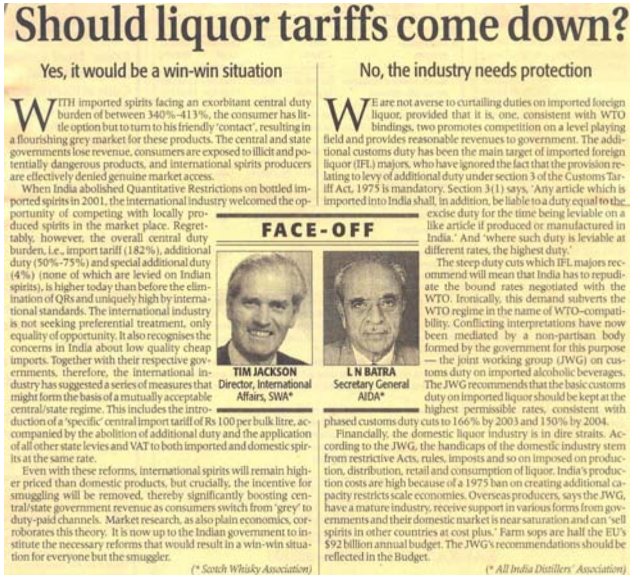
Overview

Scotch Whisky Association (SWA) is the representative organisation of over 66 Scotch whisky distillers and marketers based in Edinburgh, Scotland with the aim of protecting and promoting Scotch whisky at home and abroad. Its member organisations include Diageo plc, Chivas Brothers Ltd, Grant, William and Sons Ltd, Invergordon Distillers Ltd, Teacher Wm & Sons Ltd., among others. The Association promotes the principle of free trade in spirit drinks and affords high priority to tariff liberalisation.

SWA has been actively campaigning in India for the reduction of custom duties on imported spirits and bringing them at par with India's WTO commitments.

Situation Analysis

Dialogue with key media and other influencers revealed that domestic manufacturers had been actively seeding arguments against the lowering of duties and how it would cripple the domestic industry. In reality, a lower fiscal regime would not impact the sale of domestic brands as price points at which the overseas manufacturers would sell their brands would be far higher than the level at which the domestic industry operates.



Should liquor tariffs come down?

Yes, it would be a win-win situation

WITH imported spirits facing an exorbitant central duty burden of between 340%-413%, the consumer has little option but to turn to his friendly 'contact', resulting in a flourishing grey market for these products. The central and state governments lose revenue, consumers are exposed to illicit and potentially dangerous products, and international spirits producers are effectively denied genuine market access.

When India abolished Quantitative Restrictions on bottled imported spirits in 2001, the international industry welcomed the opportunity of competing with locally produced spirits in the market place. Regrettably, however, the overall central duty burden, i.e., import tariff (182%), additional duty (50%-75%) and special additional duty (4%) (none of which are levied on Indian spirits), is higher today than before the elimination of QRs and uniquely high by international standards. The international industry is not seeking preferential treatment, only equality of opportunity. It also recognises the concerns in India about low quality cheap imports. Together with their respective governments, therefore, the international industry has suggested a series of measures that might form the basis of a mutually acceptable central/state regime. This includes the introduction of a 'specific' central import tariff of Rs 100 per bulk litre, accompanied by the abolition of additional duty and the application of all other state levies and VAT to both imported and domestic spirits at the same rate.

Even with these reforms, international spirits will remain higher priced than domestic products, but crucially, the incentive for smuggling will be removed, thereby significantly boosting central/state government revenue as consumers switch from 'grey' to duty-paid channels. Market research, as also plain economics, corroborates this theory. It is now up to the Indian government to institute the necessary reforms that would result in a win-win situation for everyone but the smuggler.

(Scotch Whisky Association)*

FACE-OFF

TIM JACKSON
Director, International Affairs, SWA*

L N BATRA
Secretary General AIDA*

No, the industry needs protection

WE are not averse to curtailing duties on imported foreign liquor, provided that it is, one, consistent with WTO bindings, two promotes competition on a level playing field and provides reasonable revenues to government. The additional customs duty has been the main target of imported foreign liquor (IFL) majors, who have ignored the fact that the provision relating to levy of additional duty under section 3 of the Customs Tariff Act, 1975 is mandatory. Section 3(1) says, 'Any article which is imported into India shall, in addition, be liable to a duty equal to the excise duty for the time being leviable on a like article if produced or manufactured in India.' And 'where such duty is leviable at different rates, the highest duty.'

The steep duty cuts which IFL majors recommend will mean that India has to repudiate the bound rates negotiated with the WTO. Ironically, this demand subverts the WTO regime in the name of WTO-compatibility. Conflicting interpretations have now been mediated by a non-partisan body formed by the government for this purpose — the joint working group (JWG) on customs duty on imported alcoholic beverages. The JWG recommends that the basic customs duty on imported liquor should be kept at the highest permissible rates, consistent with phased customs duty cuts to 166% by 2003 and 150% by 2004.

Financially, the domestic liquor industry is in dire straits. According to the JWG, the handicaps of the domestic industry stem from restrictive Acts, rules, imposts and so on imposed on production, distribution, retail and consumption of liquor. India's production costs are high because of a 1975 ban on creating additional capacity restricts scale economies. Overseas producers, says the JWG, have a mature industry, receive support in various forms from governments and their domestic market is near saturation and can 'sell spirits in other countries at cost plus.' Farm sops are half the EU's $92 billion annual budget. The JWG's recommendations should be reflected in the Budget.

(All India Distillers' Association)*

The Challenge

Public relation's primary task was to support SWA in influencing editorial opportunities in favour of lower duties on bottled in Scotland spirits.

Strategy

The arguments being placed by the Indian industry were only from their survival's perspective. Thus it was considered prudent to shift the focus from industry to the consumer and society i.e. how the consumer will benefit from this exercise. Also highlight the impact on government revenue on account of the flourishing bootlegger trade.

A detailed target media list comprising journalists who write on the spirits industry, senior editors, columnists, opinion leaders as well as representatives of key Indian media based in the UK was compiled. Since the spokespersons of the Association are based in the UK, occasions for face-to-face interactions were restricted to their periodic visits in the country. It was therefore agreed to tap Indian media based in the UK too.

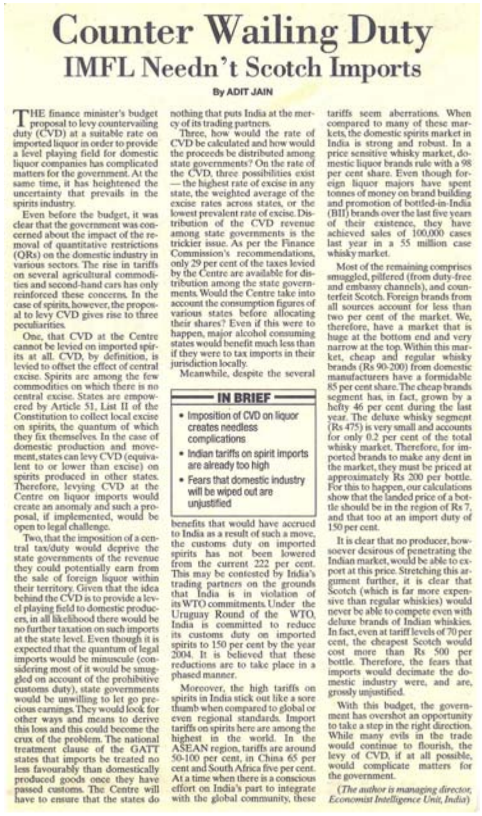
Special rationale papers were prepared on the issue. These were to be shared with the target media to sensitise them to the issue. The endeavour was to 'build a credible rationale' for lowering duties in the category.

Phase - 1

Initially the efforts were concentrated towards establishing SWA's credentials and point of view using the tools of personal interactions and relationship meetings.

Phase - 2

A more broad approach based on 'debate based' columns and industry stories was pursued subsequently since this issue had two prominent (read adversarial) dimensions - domestic industry and foreign manufacturers.



Counter Wailing Duty

IMFL Needn't Scotch Imports

By ADIT JAIN

THE finance minister's budget proposal to levy countervailing duty (CVD) at a suitable rate on imported liquor in order to provide a level playing field for domestic liquor companies has complicated matters for the government. At the same time, it has heightened the uncertainty that prevails in the spirits industry.

Even before the budget, it was clear that the government was concerned about the impact of the removal of quantitative restrictions (QRs) on the domestic industry in various sectors. The rise in tariffs on several agricultural commodities and second-hand cars has only reinforced these concerns. In the case of spirits, however, the proposal to levy CVD gives rise to three peculiarities.

One, that CVD at the Centre cannot be levied on imported spirits at all. CVD, by definition, is levied to offset the effect of central excise. Spirits are among the few commodities on which there is no central excise. States are empowered by Article 51, List II of the Constitution to collect local excise on spirits, the quantum of which they fix themselves. In the case of domestic production and movement, states can levy CVD (equivalent to or lower than excise) on spirits produced in other states. Therefore, levying CVD at the Centre on liquor imports would create an anomaly and such a proposal, if implemented, would be open to legal challenge.

Two, that the imposition of a central tax/duty would deprive the state governments of the revenue they could potentially earn from the sale of foreign liquor within their territory. Given that the idea behind the CVD is to provide a level playing field to domestic producers, in all likelihood there would be no further taxation on such imports at the state level. Even though it is expected that the quantum of legal imports would be minuscule (considering most of it would be smuggled on account of the prohibitive customs duty), state governments would be unwilling to let go precious earnings. They would look for other ways and means to derive this loss and this could become the crux of the problem. The national treatment clause of the GATT states that imports be treated no less favourably than domestically produced goods once they have passed customs. The Centre will have to ensure that the states do nothing that puts India at the mercy of its trading partners.

Three, how would the rate of CVD be calculated and how would the proceeds be distributed among state governments? On the rate of the CVD, three possibilities exist — the highest rate of excise in any state, the weighted average of the excise rates across states, or the lowest prevalent rate of excise. Distribution of the CVD revenue among state governments is the trickier issue. As per the Finance Commission's recommendations, only 29 per cent of the taxes levied by the Centre are available for distribution among the state governments. Would the Centre take into account the consumption figures of various states before allocating their shares? Even if this were to happen, major alcohol consuming states would benefit much less than if they were to tax imports in their jurisdiction locally.

Meanwhile, despite the several benefits that would have accrued to India as a result of such a move, the customs duty on imported spirits has not been lowered from the current 222 per cent. This may be contested by India's trading partners on the grounds that India is in violation of its WTO commitments. Under the Uruguay Round of the WTO, India is committed to reduce its customs duty on imported spirits to 150 per cent by the year 2004. It is believed that these reductions are to take place in a phased manner.

IN BRIEF

- Imposition of CVD on liquor creates needless complications
- Indian tariffs on spirit imports are already too high
- Fears that domestic industry will be wiped out are unjustified

Moreover, the high tariffs on spirits in India stick out like a sore thumb when compared to global or even regional standards. Import tariffs on spirits here are among the highest in the world. In the ASEAN region, tariffs are around 50-100 per cent, in China 65 per cent and South Africa five per cent. At a time when there is a conscious effort on India's part to integrate with the global community, these tariffs seem aberrations. When compared to many of these markets, the domestic spirits market in India is strong and robust. In a price sensitive whisky market, domestic liquor brands rule with a 98 per cent share. Even though foreign liquor majors have spent tonnes of money on brand building and promotion of bottled-in-India (BII) brands over the last five years of their existence, they have achieved sales of 100,000 cases last year in a 55 million case whisky market.

Most of the remaining comprises smuggled, pilfered (from duty-free and embassy channels), and counterfeit Scotch. Foreign brands from all sources account for less than two per cent of the market. We, therefore, have a market that is huge at the bottom end and very narrow at the top. Within this market, cheap and regular whisky brands (Rs 90-200) from domestic manufacturers have a formidable 85 per cent share. The cheap brands segment has, in fact, grown by a hefty 46 per cent during the last year. The deluxe whisky segment (Rs 475) is very small and accounts for only 0.2 per cent of the total whisky market. Therefore, for imported brands to make any dent in the market, they must be priced at approximately Rs 200 per bottle. For this to happen, our calculations show that the landed price of a bottle should be in the region of Rs 7, and that too at an import duty of 150 per cent.

It is clear that no producer, howsoever desirous of penetrating the Indian market, would be able to export at this price. Stretching this argument further, it is clear that Scotch (which is far more expensive than regular whiskies) would never be able to compete even with deluxe brands of Indian whiskies. In fact, even at tariff levels of 70 per cent, the cheapest Scotch would cost more than Rs 500 per bottle. Therefore, the fears that imports would decimate the domestic industry were, and are, grossly unjustified.

With this budget, the government has overshot an opportunity to take a step in the right direction. While many evils in the trade would continue to flourish, the levy of CVD, if at all possible, would complicate matters for the government.

(The author is managing director, Economist Intelligence Unit, India)

Execution & Tactics

Interviews

One-on-one interviews were organised for key spokesperson traveling into the country with correspondents who write on the spirits industry. SWA was advised to time the visits in time to influence the Budget preparations in India.

Press Briefings

Select press briefings were organised for SWA delegations visiting India comprising representatives from various countries. This provided a single platform for the media to interact and gauge the views of different countries on the matter.

Tapping Opinion Leaders

Support was solicited from columnists cum opinion leaders like Anil Dharker, Khushwant Singh (as these personalities were Scotch aficionados themselves!).

Industry Articles & Debates

As there was consensus among the international companies on the need to rationalise import duties, articles were mooted across media reflecting the views of all the foreign players in the country. Bylined articles and debate opportunities were tapped to garner favourable opinion. Comments were provided for all industry stories.

Research

A premier market research agency was commissioned to examine “consumer buying behaviour should availability be enhanced and duties be reduced”. The findings were shared with the media.

WITH MALICE TOWARDS ONE AND ALL... | *Khushwant Singh*

Into the future darkly

THE MORE I see election forecasts on TV and newspapers, the more I think that Indian psephology has as little claim to be called a science as astrology. The only difference is that psephology is striving to become a science based on collected data while astrology continues to rely on the configurations of planets as it has done over thousands of years despite its palpably false assumptions that stars influence the lives of human beings.

Psephologists assume airs of *'Sabjantawala's*. While astrologers draw charts, psephologists bombard you with figures and ever-changing guesstimates. The way their graphs move up and down has a veneer of profound scholarship. The end result is that I am more bamboozled than wiser.

The Akali-BJP combine has not been wiped out in Punjab. It came out only a whisker behind the Congress. In UP, though the BJP came down in numbers and the SP and the BSP did better than forecast, it was certainly not routed. None of the psephologists forecast a clean sweep for the Congress in Uttaranchal. Manipur remains beyond my comprehension.

Will the outcome in these states affect the government at the Centre? The prime minister, without being a psephologist or an astrologer, assures us that it will not. I can assure him that they will. He sits on a throne which has lost three of its four legs.

He has been, and is, a good man and prime minister. His only shortcoming has been his inability or unwillingness to put down resurgent fascist Hindu organisations. He has a final chance to do so now that some of them have openly announced their intention to defy the law of the land. He must not let them do so. Otherwise he will forfeit the confidence many of his admirers repose in him.

One question continues to bother me. Is there any justification for community-based parties to exist in secular India? Isn't it time the government or the Election Commission decides to outlaw the Akalis, the Muslim League, the BJP, the VHP, the Shiv Sena and their likes?

Drink and be damned

OUR GOVERNMENT has not been able to make up its mind about how to handle people's craving for liquor. We have a strong prohibition lobby which wants to put a total ban on everything alcoholic. It has been tried and it has failed miserably.

People drank spurious liquor which killed them. The government lost enormous sums in excise revenue and spent even more in enforcing prohibition. So it tried a second alternative: make liquor available but expensive so that it could earn revenue and keep it beyond the pockets of the poor.

That experiment also failed. The poor like their liquor as much as the well-to-do. Hence, illicit distillation remained profitable and a poison-making cottage industry flourished. As did the practice of putting spurious liquor in bottles of Scotch whisky.

Then the government tried yet another experiment. It threw open the Indian market to imported liquor but levied extortionate duties on it. Quality liquor became very expensive. Indigenous producers of spirits and wines screamed for protection, because their products were not of the same quality as the imported stuff.

There should be no protection given to indigenous producers of beer, wines or spirits. Our beer, gin, rum, wine and champagne are close to becoming as good as any found abroad. Whisky lags behind. It can, and must, improve to match, if not Scotch at least Irish, Canadian, American and Japanese whiskys.

The people's and the government's worst enemies in the liquor business are illicit distilleries, smugglers and bootleggers. Once they are driven out of business, most of our problems will be solved.

The latest decision of the government is as foolish as the previous ones. According to its commitments made to WTO, it should have reduced the tariff on spirits from 222 per cent to 198 per cent. Instead of abiding by its undertaking, it has imposed additional duty which raises prices of less expensive liquor by 706 per cent and 464 per cent of the more expensive. As a result, a bottle of Scotch costs Rs 3,600, while the same thing bought at a duty-free shop is Rs 900. So the smugglers and bootleggers prosper by palming off spurious stuff as genuine.

Our rulers should by now have learnt from past experience that they cannot stop people who like their drink from getting it from wherever they can. Having accepted that as a hard reality, it should see that what they get is wholesome and available at prices that don't ruin their families. It could ensure that liquor is low in alcoholic content so that who imbibe it don't get drunk and ruin their livers.

Election carnival

ELECTIONS ARE like a free style match
Where candidates are tossed like a ball,
Men and women dance in the streets
As if it is a merry carnival.

To attract and allure a mammoth crowd
SP brings in the lucky Big B
Congress ropes in the laughing Govinda
Shatru comes forward to help the BJP
Hema Malini joins the saffron camp
She plays a role — subtle and sly
When she claims, "I am Punjab's daughter-in-law"
Cries of "*Balley Balley*" rend the sky.

A film star and a politician get on well
One sings and the other screams.
Both make a nice combine
Both deal and dabble in dainty dreams.

(Courtesy: G.C. Bhandari, Meerut)

Another advice from Sir Vidia

A STORY is told about Sir Vidia Naipaul being asked to judge a poetry competition in an African country. Boys and girls recited their compositions. Naipaul was asked to announce the names of the three best and give them awards. He announced that none of the poems deserved the first or the second prize and read out the name of the winner of the third prize.

A very excited lad came up to receive it. Naipaul spoke to the boy in a loud voice: "I'll give you the prize if you give me a promise," said Naipaul.

The boy agreed to abide by anything Naipaul asked for.

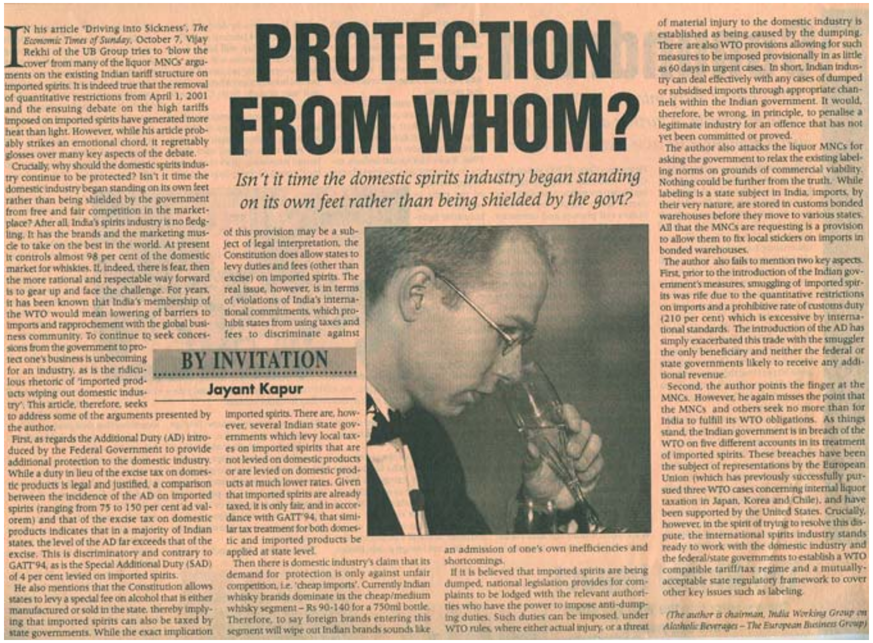
"I'll give you this prize if you promise never to write poetry again," said Naipaul.

Results and Impact

Media contact programme snowballed into a flurry of reportage in support of the rationale for lowering of duties in leading national dailies, magazines and channels:

- ➢ Repeated reports including edit pieces in The Economic Times, Business Standard,etc
- ➢ Article on the issue in leading general interest magazines like Outlook
- ➢ Noted opinion leaders like Khushwant Singh, Anil Dharker wrote about the issue in their columns
- ➢ Star News (then produced by NDTV) held a live discussion on prime-time business
- ➢ Face-off in the Economic Times carried the views of SWA
- ➢ Full-page special reports in the same papers presented the view of the industry collectively arguing in favour of the reduction
- ➢ Bylined articles in Economic Times and Times of India, allowed the association to present its views quite exhaustively

All the above resulted in the establishment of a review committee by the Government of India in the initial years (2000-01) and the duties being reduced to a significant level in March 2003.



PROTECTION FROM WHOM?

Isn't it time the domestic spirits industry began standing on its own feet rather than being shielded by the govt?

BY INVITATION

Jayant Kapur

IN his article 'Driving into Sickness', *The Economic Times of Sunday*, October 7, Vijay Rekhi of the UB Group tries to 'blow the cover' from many of the liquor MNCs' arguments on the existing Indian tariff structure on imported spirits. It is indeed true that the removal of quantitative restrictions from April 1, 2001 and the ensuing debate on the high tariffs imposed on imported spirits have generated more heat than light. However, while his article probably strikes an emotional chord, it regrettably glosses over many key aspects of the debate.

Crucially, why should the domestic spirits industry continue to be protected? Isn't it time the domestic industry began standing on its own feet rather than being shielded by the government from free and fair competition in the marketplace? After all, India's spirits industry is no fledgling. It has the brands and the marketing muscle to take on the best in the world. At present it controls almost 98 per cent of the domestic market for whiskies. If, indeed, there is fear, then the more rational and respectable way forward is to gear up and face the challenge. For years, it has been known that India's membership of the WTO would mean lowering of barriers to imports and rapprochement with the global business community. To continue to seek concessions from the government to protect one's business is unbecoming for an industry, as is the ridiculous rhetoric of 'imported products wiping out domestic industry'. This article, therefore, seeks to address some of the arguments presented by the author.

First, as regards the Additional Duty (AD) introduced by the Federal Government to provide additional protection to the domestic industry. While a duty in lieu of the excise tax on domestic products is legal and justified, a comparison between the incidence of the AD on imported spirits (ranging from 75 to 150 per cent ad valorem) and that of the excise tax on domestic products indicates that in a majority of Indian states, the level of the AD far exceeds that of the excise. This is discriminatory and contrary to GATT'94, as is the Special Additional Duty (SAD) of 4 per cent levied on imported spirits.

He also mentions that the Constitution allows states to levy a special fee on alcohol that is either manufactured or sold in the state, thereby implying that imported spirits can also be taxed by state governments. While the exact implication of this provision may be a subject of legal interpretation, the Constitution does allow states to levy duties and fees (other than excise) on imported spirits. The real issue, however, is in terms of violations of India's international commitments, which prohibit states from using taxes and fees to discriminate against imported spirits. There are, however, several Indian state governments which levy local taxes on imported spirits that are not levied on domestic products or are levied on domestic products at much lower rates. Given that imported spirits are already taxed, it is only fair, and in accordance with GATT'94, that similar tax treatment for both domestic and imported products be applied at state level.

Then there is domestic industry's claim that its demand for protection is only against unfair competition, i.e. 'cheap imports'. Currently Indian whisky brands dominate in the cheap/medium whisky segment – Rs 90-140 for a 750ml bottle. Therefore, to say foreign brands entering this segment will wipe out Indian brands sounds like an admission of one's own inefficiencies and shortcomings.

If it is believed that imported spirits are being dumped, national legislation provides for complaints to be lodged with the relevant authorities who have the power to impose anti-dumping duties. Such duties can be imposed, under WTO rules, where either actual injury, or a threat of material injury to the domestic industry is established as being caused by the dumping. There are also WTO provisions allowing for such measures to be imposed provisionally in as little as 60 days in urgent cases. In short, Indian industry can deal effectively with any cases of dumped or subsidised imports through appropriate channels within the Indian government. It would, therefore, be wrong, in principle, to penalise a legitimate industry for an offence that has not yet been committed or proved.

The author also attacks the liquor MNCs for asking the government to relax the existing labeling norms on grounds of commercial viability. Nothing could be further from the truth. While labeling is a state subject in India, imports, by their very nature, are stored in customs bonded warehouses before they move to various states. All that the MNCs are requesting is a provision to allow them to fix local stickers on imports in bonded warehouses.

The author also fails to mention two key aspects. First, prior to the introduction of the Indian government's measures, smuggling of imported spirits was rife due to the quantitative restrictions on imports and a prohibitive rate of customs duty (210 per cent) which is excessive by international standards. The introduction of the AD has simply exacerbated this trade with the smuggler the only beneficiary and neither the federal or state governments likely to receive any additional revenue.

Second, the author points the finger at the MNCs. However, he again misses the point that the MNCs and others seek no more than for India to fulfil its WTO obligations. As things stand, the Indian government is in breach of the WTO on five different accounts in its treatment of imported spirits. These breaches have been the subject of representations by the European Union (which has previously successfully pursued three WTO cases concerning internal liquor taxation in Japan, Korea and Chile), and have been supported by the United States. Crucially, however, in the spirit of trying to resolve this dispute, the international spirits industry stands ready to work with the domestic industry and the federal/state governments to establish a WTO compatible tariff/tax regime and a mutually-acceptable state regulatory framework to cover other key issues such as labeling.

(The author is chairman, India Working Group on Alcoholic Beverages – The European Business Group)