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VIA E-MAIL

Director
Regulations and Rulings Division
Alcohol and Tobacco Tax and Trade Bureau
P.O. Box 14412
Washington, DC 20044-4412

**Re: Comments in Response to Notice No. 53
Use of the Word "Pure" or its Variants on Labels or in Advertisements
of Alcohol Beverage Products**

Dear Sir/Madam:

On behalf of our client, Sagatiba Brasil, S.A. ("Sagatiba" or "Company"), we hereby submit comments in response to the Alcohol and Tobacco Tax and Trade Bureau's ("TTB") Notice No. 53. TTB has requested comments from the public in connection with the use of the word "pure" or its variants on labels or in advertisements of alcohol beverage products. Sagatiba is a Brazilian company that intends to import into the United States a distilled spirit, Cachaça. The agency's prohibitions on the use of the word "pure" will greatly limit Sagatiba's ability to label and advertise its product in the United States. We set forth below the Company's position with respect to this issue as well as suggested revisions to 27 C.F.R. 5.42(b)(5) and 5.65(a)(8) (the "pure regulations").

I. SAGATIBA'S CACHAÇA PRODUCT

Sagatiba manufactures Cachaça, a distilled spirit, that is a distinctive product of Brazil. The company produces Cachaça in Brazil exclusively from sugarcane in a unique multi-distillation process that results in a premium alcohol beverage of a quality that greatly exceeds other Cachaça products. Currently, TTB considers

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Cachaça within the class of “rum” and does not allow the product to be labeled or advertised without a reference to “rum.”¹

Sagatiba produces two types of Cachaça, “Sagatiba Pura” and “Sagatiba Velha.” (The term “Velha” means aged in Portuguese.) The Company has applied for trademarks for each of these Cachaça products. “Sagatiba Pura” is the product that has prompted the Company to file the subject comments because it believes that the “Pura” designation of its Cachaça is warranted based on its unique manufacture and chemical composition.

Attached as Exhibit 1 is a summary prepared by Sagatiba regarding the multi-distillation process used to manufacture its “Sagatiba Pura” brand of Cachaça. Two aspects of Sagatiba’s manufacturing process are of particular significance:

- The water used in Sagatiba’s distillation process is incredibly pure. It is drawn from an underground natural aquifer and is rich in natural minerals. This pure water constitutes exactly 62 percent of the final product.
- To distill its Cachaça, Sagatiba uses a technologically advanced column still with four condensers. The condensers allow the Company to access and remove undesirable chemical components, thereby producing a very “pure” product that retains its premium character.

Enclosed as Exhibit 2 are the chemical standards issued by the Brazilian Government that all Cachaça products must meet. Also included in Exhibit 2 are Sagatiba’s chemical standards for its “Sagatiba Pura” brand of Cachaça. A comparison of the standards illustrates the significantly lower levels of impurities present in Sagatiba’s product and its overall superior quality.

II. PROPOSAL FOR REVISING REGULATIONS

Based on its unique distillation and manufacturing processes, Sagatiba asserts that TTB should allow for the use of the word “pure” in the Company’s labeling and advertising of the product. Sagatiba argues that the pure regulations should be revised as set forth below.

¹ Presently, TTB considers Cachaça to be within the class of “rum” under its standards of identity regulations. It has come to our attention that TTB is currently awaiting a petition from the Embassy of Brazil which would request, on behalf of the Brazilian Cachaça industry, that Cachaça be recognized as a distinctive product of Brazil entitled to its own “class” or “type” under TTB’s standards of identity, thereby allowing the product to be labeled and advertised without the rum designation.

A. An alcoholic beverage which includes a variant of the word “pure” in its trademarked name should be allowed for labeling and advertising purposes.

Sagatiba has applied for a trademark for its brand “Sagatiba Pura” and the Company intends to label and market the product in the United States with this trademark. As such, Sagatiba proposes that TTB revise its pure regulations to include trademarked products as an exception to the general ban of the word “pure” in the labeling and advertising of alcohol beverages.

Currently, the pure regulations allow, *inter alia*, the use of the word “pure” when the word is part of (1) the *bona fide* name of a permittee or retailer for whom the distilled spirits are bottled, or (2) the *bona fide* name of the permittee who bottled the distilled spirits. The addition of an exception to the general rule which would allow for the trademarked name of a distilled product that includes a variant of the word “pure” would be consistent with the current regulations and would not mislead the consumer.

B. A multi-distillation manufacturing process that results in a purer form of an alcoholic beverage should allow for the “pure” designation for labeling and advertising purposes.

Sagatiba asserts that the TTB regulations should take into account manufacturing processes in addition to specific ingredients when allowing the use of “pure” to describe an alcoholic beverage for labeling and marketing purposes. As set forth above and in the Exhibits to this submission, Sagatiba has developed a manufacturing process that results in a type of Cachaça that is much purer in its chemical composition and quality.

The manufacturing method used by Sagatiba to manufacture its “Sagatiba Pura” produces a Cachaça that is “pure” as that word is commonly understood. The word “pure” is defined by the Oxford English Dictionary as:

- (1) not mixed or adulterated with any other substance or material.
- (2) free of impurities. . . .

Sagatiba produces “Sagatiba Pura” that meets standards that greatly exceed those established by the Brazilian Government and the Brazilian Cachaça industry. The Company expends significant amounts of money and resources to ensure that its Cachaça is manufactured to the highest standards, including (1) distilling the product with the use of four condensers, a process that ensures all impurities are removed from the final product, and (2) using natural, mineral rich water, an ingredient that constitutes a majority of the finished product. Thus, “Sagatiba Pura” fully meets the definition of “pure” as that word is commonly understood.

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Accordingly, not only should the purity of the individual ingredients allow for an exemption for the use of "pure" to describe an alcoholic beverage, but a *manufacturing process* that yields a purer form of the product should warrant a similar exemption. In fact, a better argument could be made for consideration of the manufacturing process in this context. The inclusion of a single "pure" ingredient does not ensure the purity of the final product. However, the utilization of a manufacturing process that results in an unadulterated finished product is an even more important fact that should be disclosed to the consumer.

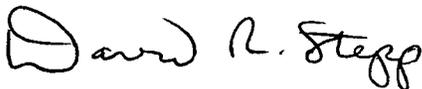
A claim regarding the purity of the final product based on a manufacturing process would be no more onerous to enforce than a claim made regarding the purity of an individual ingredient. TTB could require any company that desires to label or advertise its product as "pure" based on its manufacturing process to provide evidence of such during the label approval process.

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Sagatiba appreciates TTB's consideration of the Company's comments regarding the pure regulations. If the agency has any questions regarding these comments or requires additional information, please do not hesitate to contact David Stepp at david.stepp@bryancave.com or Miriam Hyman at miriam.hyman@bryancave.com.

Very truly yours,

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Attachments

EXHIBIT 1

Technical Production Notes

Sagatiba Pura is distilled using the most technologically advanced column still in South America. The process begins in the sugarcane plantations where specially selected sugarcane is harvested without burning the leaves (some sugarcane used on the Pura composition can be burned, it doesn't happen with the velha) and transported carefully to the distillery.

On arrival it is crushed and the extracted sugarcane juice held in large fermentation tanks. Natural Yeast is added and the juice ferments for 8 – 10 hours resulting in a low alcohol liquid known as the 'wine'. The wine is between 5 – 7% Alcohol by Volume (ABV). The wine is then distilled once to produce a high alcohol (48% ABV) raw cachaça. Using catering grade stainless steel piping, tanks, trucks, the raw cachaça is transported to the Sagatiba production facility in the country side of São Paulo state. On arrival it is tested for purity and chemical composition. From this step on, the unique Sagatiba production process begins.

The raw cachaça is held in storage tanks where it is diluted back down to between 7 and 15% ABV (variance due to ambient air temperature and quality of the raw cachaça). The water used for the dilution is incredibly pure. It is drawn from deep beneath the surface from the underground Guarani Aquifer, the world's second largest natural aquifer. This pure, mineral rich water will constitute exactly 62% of the final product, hence its importance.

The low alcohol wine is then introduced to the base of the column where indirect heat is applied. This vaporizes the liquid. The vapor passes up through the column. The top third of the column is made of copper. Copper has a chemical reaction that helps remove impurities from the alcoholic vapor. The copper reacts with the impurities and turns them into aromatic esters (good ones).

At the head of the column there are four condensers. These condensers allow the Master Distiller to access and remove the undesirable chemical components of the distillate whilst retaining the flavor and character of cachaça. At each condenser there are three options; 1) discard the distillate; 2) keep the distillate i.e. ready for bottling; 3) send back to the column for a further distillation. Sagatiba's cachaça column still is the most technically sophisticated of any cachaça still in Brazil.

It is the third option that has allowed Sagatiba to produce such a pure spirit with such character. The column allows the Master Distiller to reintroduce the distillate at any point throughout the column. In other words, a full cycle of distillation may not be necessary. Perhaps a small cycle of distillation through the copper section of the still is all that is necessary to access another impurity in order to remove it from the finished product.

After this multi-distillation process, the product is ready for bottling.

The distillate leaves the column at 39% ABV and loses around 1% ABV during transportation, filtering and bottling and so is bottled at 38% ABV.² The result is the world's first premium cachaça. Sagatiba Pura the 'Pure Spirit of Brazil'.

² It should be noted that Sagatiba is considering increasing the alcohol content of the Cachaça destined for the U.S. market to ensure that it meets TTB's alcohol content requirements.

EXHIBIT 2

Brazilian Standards for Cachaça (according to Agriculture Board)

ABV (alcohol by volume)	38 – 48% or 76 – 96 Proof
Aldehyds	0 – 30 mg / 100mg A.A.100%
Esters (Ethyl Acetate)	0 – 200 mg / 100ml A.A.100%
Volatile Acidity	0 – 150 mg / 100ml A.A.100%
Methyl Alcohol	0 – 0,25 ml / 100ml A.A.100%
Higher Alcohols	0 – 300 mg / 100ml A.A.100%
Furfural	0 – 5 mg / 100ml A.A.100%
Copper	0 – 5 mg / 100ml A.A.100%
Secondary Components	200 – 600 mg / 100ml A.A.100%

Sagatiba Current Standards for Cachaça

ABV (alcohol by volume)	38 or 76 Proof
Aldehyds	0 – 3 mg / 100mg A.A.100%
Esters (Ethyl Acetate)	0,2– 3 mg / 100ml A.A.100%
Volatile Acidity	1,5 – 2,5 mg / 100ml A.A.100%
Methyl Alcohol	0 ml / 100ml A.A.100%
Higher Alcohols	0 – 240 mg / 100ml A.A.100%
Furfural	0 mg / 100ml A.A.100%
Copper	0 – 2 mg / 100ml A.A.100%
Secondary Components	200 – 250 mg / 100ml A.A.100%