

HOW THE WORLD TURNS: THE U.S. AND BOLIVIA COME TO TRADE TERMS OVER SINGANI AND AMERICAN BOURBON / TENNESSEE WHISKEY

January 31, 2023



By: [Richard M. Blau](#), Regulated Products Section Chair

The U.S. Alcohol and Tobacco Tax and Trade Bureau (TTB) has officially recognized Bolivian **Singani** as a unique type of brandy with its own Standard of Identity (SOI). Singani is a spirit distilled from Muscat of Alexandria grapes and supposedly originated when Spanish missionaries arrived in the Sixteenth Century to colonize what is now Bolivia.

In return, Bolivia will soon recognize Bourbon Whiskey and Tennessee Whiskey as distinctive products of the United States.

The Significance of Standards of Identity

The TTB regulations establish standards of identity for distilled spirits products and categorize these products according to various classes and types. See [27 CFR part 5, subpart I](#). As defined in [27 CFR 5.141\(a\)](#), the term "class" refers to a general category of spirits. Subpart I sets out the various classes of distilled spirits, such as whisky, rum, gin, and brandy. As used in § 5.141(a), the term "type" refers to a subcategory within a class of spirits. For example, "Cognac" and "Pisco" are types of brandy, and "Cachaça" is a type of rum.

The TTB labeling regulations at [27 CFR 5.63\(a\)\(2\)](#) require that the class, type, or other appropriate designation appear on the distilled spirits labels. If a class or type does not appear on the label, [27 CFR §§ 5.156](#) and [5.166](#) require that such products be designated in accordance with trade and

consumer understanding thereof, or, if no such understanding exists, with a distinctive or fanciful name appearing in the same field of vision as a statement of composition.

What is Singani?

"Singani" is a term recognized by Bolivia as a designation for an alcohol beverage product distilled from grape wine or grape pomace and produced in certain delimited parts of Bolivia. TTB distilled spirits labeling regulations generally classified Singani products as brandies. TTB's regulations at [27 CFR 5.145\(a\)](#) provide that "brandy" is a spirit distilled from the fermented juice, mash, or wine of fruit or the residue thereof.

The spirit must be distilled at less than 95 percent alcohol by volume (190° proof) and bottled at no less than 40 percent alcohol by volume (80° proof) to qualify as brandy. Section 5.145(b) requires that brandies generally be labeled with their applicable type name as specified in the regulations, or, if the brandy does not conform to a specified type, must be labeled as "brandy" followed immediately by a truthful and adequate statement of composition.

How It Came To Be

Promulgation of the new SOI followed a joint petition submitted by the Plurinational State of Bolivia and Singani 63, Inc., a private and irreverent corporation (*see their anything-but-standard Terms and Conditions on the company's Website*) that is a brand owner. The joint petition initially submitted on November 18, 2014, went through several amendments and supplementations. The promulgation process then turned international, as discussions followed between officials of Bolivia and the Office of the U.S. Trade Representative (USTR). After extensive consultations between USTR and TTB, Bolivia's Ministry of Foreign Affairs exchanged letters with USTR on January 6, 2020, agreeing on a procedure that would lead each party to recognize as distinctive certain distilled spirits products produced in the other party's territory.

The new designation of Singani as a unique subcategory of brandy was formally [announced](#) in the Federal Register on January 13, 2023, as part of a final TTB rule. The new SOI, including its unique geographical appellation of origin, becomes effective one month later on, February 13, 2023.

Approval of the new SOI means that Singani not only will be in its own subcategory of brandy, but also will be recognized as a distinctive product of Bolivia. More importantly to American distillers, the new ruling means the United States will recognize Bolivia's monopoly on the production of Singani. Just as Champagne can be produced only in the Champagne region of France, or Tequila can be produced only in Mexico, from February 13th forward, the United States accepts the proposition that Singani can be made only in Bolivia.

Why It Came To Be

Public interest in brown spirits, especially Whiskey and Bourbon, has soared over the past several years. For example, in 2019, over 26 million 9-liter cases of American Whiskey were sold in the United States, generating over \$4 billion in revenue for distillers.

Recognizing an opportunity, numerous alcohol industry groups associated with the distilled spirits industry, such as the [American Bourbon Association](#) and the [Tennessee Distillers Guild](#) under the coordination of the [Distilled Spirits Council of the United States \(DISCUS\)](#), have been lobbying for special SOI status to preserve the definition and protect the integrity of American Bourbon (which is made in Kentucky, but also other states), and Tennessee Whiskey (which is made only in Tennessee), from other bourbons and whiskey products, made elsewhere.

Bolivia's negotiations with USTR regarding Singani resulted in a brokered deal. In return for recognizing Singani as a distinct type of brandy, the two countries agreed that following Singani's recognition by the U.S., Bolivia would prohibit the sale within Bolivia of any product as "Bourbon Whiskey" or "Tennessee Whiskey" if that product was manufactured outside the United States and not in accordance with the laws and regulations of the United States governing the manufacture of Bourbon Whiskey and Tennessee Whiskey. These protections also extended to products spelled as "Bourbon Whisky" or "Tennessee Whisky."

With that deal in hand, TTB published [Notice No. 205](#) in the Federal Register on August 25, 2021, proposing to amend the regulations setting forth the standards of identity for distilled spirits (86 FR 47429). Specifically, TTB proposed amending § 5.22(d), now § 5.145, which lays out the SOI for brandy, to include Singani as a type of brandy that is a distinctive product of Bolivia. TTB also asserted that evidence suggests the generally recognized geographical limits of the Singani-producing areas do not extend beyond certain delimited "zones of production" located exclusively in Bolivia.

TTB noted that Bolivia's beverage laws allow products designated as Singani to have an alcohol content ranging from 35 to 45 percent alcohol by volume (70° to 90° proof). In comparison, TTB's SOI for brandy requires all products to have a minimum alcohol content of 40 percent by volume (80° proof). Therefore, TTB also proposed to exempt Singani from the general minimum bottling proof requirement for brandy (now in § 5.145(a)) to allow Singani to be bottled at not less than 35 percent alcohol by volume (70° proof) as permitted by the laws and regulations of Bolivia.

In addition, TTB proposed to exempt Singani from the requirement to label grape brandies that are stored in oak containers for less than two years with the word "immature," as currently defined in § 5.145(c)(1). Bolivian standards do not require Singani to be aged, and the same exemption

applies to other types of brandy derived from grapes (specifically neutral brandy, pomace brandy, marc brandy, grappa brandy, Pisco, Pisco Perú, and Pisco Chileno).

What About Existing COLAs and Approved Labels?

In Notice No. 205, TTB stated that the proposed change to the SOI regulations would revoke by operation of regulation any Certificate of Label approvals (“COLAs”) that specify “Singani” as the brand name or fanciful name, or as part of the brand name or fanciful name, of distilled spirits products that are not products of Bolivia.

However, TTB’s COLA database does not show any approved labels that used the term “Singani” as the brand name or fanciful name, or as part of the brand name or fanciful name, for distilled spirits produced outside Bolivia. Consequently, the potential impact to existing COLAs should be minimal.

The Bottom Line

This is good news for Singani 63, which currently may be the only Singani distilled spirit brand lawfully available in the United States market. It is also good news for the distillers of Bolivia, who can now look forward to serving the United States market as exclusive manufacturers of Singani.

And, of course, the deal is good news for American Bourbon and Tennessee Whiskey distillers, who are one step closer to a world with geographical appellation protections against knock-offs, imitators and other undeserving competitors.

International trade is a crucial component to the most successful alcohol beverage brands. “Deals” like the approval of Singani’s own Standard of Identity require careful planning, strategic connections, and years of perseverance. But viewed as a long-term investment, those efforts can produce results that approach perpetuity. Just ask the Champagne châteaux of France or the blue agave farmers of Jalisco, Mexico.

For more information regarding Standards of Identity and geographical appellations of origin, contact GrayRobinson’s [Nationwide Alcohol Industry Group](#) by telephone at (866) 382-5132 or via email at beveragelaw@gray-robinson.com.



Richard M. Blau

Regulated Products Section Chair

richard.blau@gray-robinson.com

813.273.5128

Richard M. Blau leads the GrayRobinson Nationwide Alcohol Industry Team, focusing on the laws that govern the production, importation, marketing, distribution, and sale of alcoholic beverages throughout America. Richard works with all levels of the alcohol industry's "three-tier system," as well as providers who are not licensees. He has represented international alcohol beverage importers and domestic manufacturers, statewide wholesaler trade groups and regional distributors, and retailers (including multistate on- and off-premises chains). Richard has achieved numerous peer-related accolades for his legal work, including **Chambers and Partners** - Nationally ranked as "Band 1" for Alcohol Beverage Law & Food Law; **Best Lawyers in America** - Nationally listed for Food and Beverage Law.