November 30, 2018

The Honorable Steven Mnuchin
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

The Honorable Mick Mulvaney
Director
Office of Management and Budget
725 17th Street, NW
Washington, D.C. 20503

The Honorable Neomi Rao
Administrator
Office of Information and Regulatory Affairs
The Office of Management and Budget
725 17th Street, NW
Washington, D.C. 20503

The Honorable Kevin McAleenan
Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Avenue, NW
Washington, D.C. 20229

Dear Secretary Mnuchin, Director Mulvaney, Administrator Rao, and Commissioner McAleenan:

We write to express our strong opposition to the Notice of Proposed Rulemaking issued by the Treasury Department and Customs and Border Protection on August 2, 2018, that would block wineries from continuing to use the duty drawback program. In addition to not complying with 19 U.S.C. 1313, this proposed rule would hurt an important industry in our states that has already been hit hard by retaliatory tariffs.

The duty drawback program encourages the production of goods in the United States and supports U.S. producers that export to foreign markets. By allowing wineries to recoup duties, taxes, and fees on imported wines after exporting domestically-produced wines, the duty drawback program has contributed to a 200 percent increase in wine exports by value since U.S. wineries began using the program in 2001.

The *Trade Facilitation and Trade Enforcement Act of 2015* (TFTEA) clearly and explicitly preserves the use of duty drawback for wine, and the accompanying Conference Report leaves no room for doubt as to Congressional intent: "The Conferees further clarify that the existing treatment of wine under section 313(j)(2) of the Tariff Act of 1930 is preserved, and that the amendments to the statute do not change this treatment." The Administration cannot change a statutory mandate through regulation as the proposed rule attempts to do.

In addition to violating Congressional intent, prohibiting wineries from continuing to use duty drawback would eliminate a critical export promotion tool at a time when the wine industry is already facing significant export barriers. In retaliation for tariffs imposed by the Administration, U.S. wine is now subject to a total tax and tariff rate of 79% in China, one of the fastest-growing markets for U.S. wine, putting our domestic producers at a severe disadvantage compared to foreign competitors.

We strongly urge you to implement TFTEA in accordance with Congressional intent by removing the prohibition on duty drawback for wine. The Administration should be doing all it can to support, rather than further endanger, the international competitiveness of U.S. industries.

Thank you for your attention to this important matter.

Sincerely,

Dianne Feinstein
United States Senator

Patty Murray
United States Senator

Maria Cantwell
United States Senator

Kamala D. Harris
United States Senator