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Congress of the United States
House of Representatives
Washington, DC 20515–5401

COMMITTEES:
EDUCATION AND LABOR
JUDICIARY
NATURAL RESOURCES

November 10, 2009

The Honorable Charles B. Rangel
Chairman
House Committee on Ways and Means
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Rangel:

We write to respectfully request that you schedule H.R. 2122 for consideration by the Committee and that you provide us with the opportunity to brief Committee Members on the bill prior to its consideration.

As you know, pursuant to section 7652 of the Internal Revenue Code, most of the revenue raised from the federal excise tax on rum produced in Puerto Rico, the U.S. Virgin Islands (USVI) and foreign countries is returned—covered over—to the treasuries of Puerto Rico and the USVI. The purpose of the cover-over program is to provide budgetary support to the territorial governments for economic development and important social needs. The more rum produced in a territory and sold in the United States, the more cover-over funds that territory government will receive.

Last year, Diageo—a foreign company that is the parent of the Captain Morgan brand—announced that it would move its operation from Puerto Rico to the USVI in 2012. Some industry analysts estimate that the loss to Puerto Rico—direct and indirect—could be as much as $6 billion over 30 years. This includes the loss of at least 320 rum production jobs in Ponce, Puerto Rico.

Companies make business decisions to cease operations in one jurisdiction and to open operations in another jurisdiction all the time. Such decisions, even though they inevitably cause hardship to the jurisdiction being departed, are not inherently objectionable.

What makes the Diageo deal deeply troubling to any objective observer is what Diageo was promised in exchange for moving to the USVI, and how those promises will be paid for. Whereas Puerto Rico currently uses a small fraction of its annual federal excise tax revenue—about 6%—to promote Puerto Rican rums in general, Diageo will be provided with direct subsidies and other incentives that may amount to up to 50% of the USVI's new excise tax revenue. Conservative estimates place the Diageo gain from this enticement at more that $2.7 billion over 30 years. It should be noted that the Government of the USVI recently announced a similar deal with the rum producer Cruzan, which was already operating in the territory.

H.R. 2122 would create a prospective rule capping the amount of cover-over funds that both Puerto Rico and the USVI could use to subsidize rum producers. The bill would permit reasonable assistance to rum producers. However, federal tax dollars should not be used to provide unreasonable or excessive subsidies. H.R. 2122 would ensure cover-over funds are used by the territories in a responsible manner and to benefit the general public in both jurisdictions. The bill will help preserve strong bipartisan support in Congress for the cover-over program. Absent adoption of H.R. 2122 or something similar, we fear that the program will be vulnerable to the charge that it is mere corporate welfare.

We thank you for your attention to this important matter.

Sincerely,

Pedro R. Pierluisi
Member of Congress

José E. Serrano
Member of Congress

Luis V. Gutierrez
Member of Congress

Nydia M. Velázquez
Member of Congress

cc: Democratic Members, House Committee on Ways and Means