IND0017 - Scotch Whisky Association

1. The Scotch Whisky Association (SWA) welcomes the opportunity to respond to the International Agreements Committee's call for evidence into the UK-India trade negotiations. The Scotch Whisky Association represents the Scotch Whisky industry, with 84 member companies covering 95% of the industry.

2. There is significant potential for Scotch Whisky in an agreement between the UK and India. India is the second largest market by volume for Scotch Whisky, and in 2021 India imported the equivalent of 136m bottles of Scotch Whisky, worth £146.2m. The market is still in recovery from the impacts of the Covid-19 Pandemic on trade: in 2019 Scotch Whisky exports were worth over £166m. This is dominated by bulk exports (historically over 75% of exports), which are either bottled in India as Scotch Whisky or mixed with locally produced spirits which use Scotch Whisky as an ingredient. As India is the largest whisky market in the world, and Scotch Whisky represents just 2% of that market, there are considerable opportunities for growth if key barriers such as high tariffs, excise tax rates, and other market access issues are addressed through the UK-India FTA.

3. By far the most significant barrier for Scotch Whisky exports to India is the 150% import tariff, comprising of a 50% Basic Customs Duty and 100% Agriculture Infrastructure Development Cess. This is very high by both global standards and those of other major emerging economies (China 5% and Brazil 20%). It is also high by Indian standards; while many of India's WTO bound tariff rates on agricultural products are among the highest in the world, the applied tariff rates outside alcohol are lower (averaging 32.7%). By contrast, the 150% applied tariff on Scotch Whisky is also its bound (ceiling) rate under India's WTO commitments. The tariff is a significant barrier for SMEs and applies equally to bottled Scotch whisky and bulk Scotch Whisky imported for local bottling as Scotch Whisky and used as an ingredient in Indian spirits, affecting the Indian spirits industry as well as Scotch Whisky producers. Not surprisingly, in 2016, the Confederation of Indian Alcoholic Beverages Companies (the trade association representing Indian spirits producers), in a submission to the Union Budget, called for substantial tariff liberalisation.

4. Modelling suggests that even a phased reduction in the tariff to an end rate of 30% over a threeyear transition period would increase Scotch Whisky exports to India by a cumulative total of £1.24 billion over the first five years.
   By way of comparison, total exports of Scotch Whisky to India were worth £166 million in 2019 (pre-Covid disruption). The economic opportunities afforded by tariff liberalisation for Scotch Whisky mean that this must be a priority for the UK Government in negotiations.

5. The SWA strongly believes that, while tariff liberalisation can be introduced in a phased manner, the UK should not allow the implementation of Tariff Rate Quotas (TRQs) to manage tariff liberalisation. We are aware that through the India-Australia negotiations, the use of TRQs has been proposed to manage Australian wine exports to India. We would have serious concerns about this approach being replicated for Scotch Whisky exports to India. The growth of Scotch Whisky in India began following the removal of Indian TRQs in the 1990s, and as the WTO approach is for the tariffication of TRQs, the SWA therefore oppose any regression to the use of TRQs to control imports. While there is scope for further growth of Scotch Whisky exports through tariff liberalisations, it will always remain a niche product given the scale of the market

   (c. 6-7% of the market), and so TRQs are not necessary to manage trade volumes and instead would result in trade distortion.

6. The SWA therefore welcomes the emphasis that the UK Government has placed on tariff liberalisation for Scotch Whisky in its strategic approach and negotiating objectives. Furthermore, the strategic approach recognises "the merits of an Interim Agreement as a potential option to deliver early benefits" and the liberalisation of the import duty on Scotch Whisky is a clear example of an early benefit that must be secured via any interim agreement. The Scotch Whisky industry would strongly encourage the UK to adopt this approach, delivering tariff liberalisation in the Scotch Whisky sector through an early harvest Interim Agreement, while addressing the remaining Federal and State level market access issues affecting the industry through a fullblown FTA agreement to follow. Appropriate safeguards can be built in to the Interim Agreement to ensure that it adds momentum to the overall FTA talks, not least as the SWA would expect its remaining market access issues to be addressed in a full-blown FTA.

7. In addition to the import tariff, alcohol is also subject to extremely high excise duties and other taxes at State level. Alcohol is a State subject under the Indian Constitution and for most States, alcohol excise is their biggest single source of revenue (up to 30% of revenue in some cases). Excise tax structures and tax burdens vary widely across States, with extremely high rates and complex structures all being common features. These inflate retail prices, which in turn leads to reduced consumer choice, drive non-tax paid activity, and ultimately reduce government revenues. Tax regimes applying a higher burden to imported products may also raise WTOcompliance concerns. Modelling suggests that simplifying the excise tax regimes in key States by adopting best practice principles that reduce the retail price by 20 - 30% would increase Scotch Whisky exports to India by a cumulative total of £879 million over the first five years. This could also help to increase state level revenue: in 2021 Maharashtra reduced their excise tax from 300% to 150%, citing an ambition to increase revenue as a key factor for the change.

8. Although modelling indicates that tariff liberalisation would lead to a substantial increase in tax revenues for the States, there is also concern in the industry that it could be offset by increases in State level taxes. The SWA would welcome negotiators seeking safeguards to prevent this, which should include (but not be limited to) establishing frameworks and disciplines under the FTA to facilitate engagement with the States to prevent further increases

in excise and other taxes at a State level. The SWA recognises the opaque and complex nature of the Indian State tax regimes and is therefore pleased to see DIT working on this issue, both in terms of preventing further increases and seeking reductions.

9. Other market access barriers include Food Safety and Standards Authority of India (FSSAI) labelling requirements and alcoholic beverage standards, which can often be changed at short notice or be unnecessarily strict, such as in the case of upper abv thresholds, which exclude 'cask strength' products from the market. The SWA would urge negotiators to establish clear procedures and timescales to manage changes in regulations relating to alcoholic beverages, as well as consultation processes to ensure regulations are proportionate and reasonable. This is reflected in the emphasis the strategic approach places on working to secure regulatory transparency and harmony, and well as the UK working to promote "international norms for labelling regulations and regulatory convergence".

10. Finally, there is a longstanding concern around Indian customs procedures, particularly valuations. Lengthy delays in the customs valuation process by India's Special Valuation Branch (SVB) creates significant uncertainty over traders' potential import tariff liabilities, disrupting business planning. It is therefore very positive to see the strategic approach set an ambition to "secure commitments to simple, efficient, and transparent customs procedures which minimise costs and administrative burdens for businesses [and] Ensure that processes are predictable at, and where possible away from, the border". The FTA should incorporate the WTO rules on customs valuation, with language that ensures valuation processes are conducted in a fair, reasonable and expeditious manner. This would support business planning and inward investment to India, reducing the risk of both disputes over SVB decisions and the benefits of import tariff reform being undermined retrospectively.

11. Under the strategic approach the UK Government aims to secure greater access for UK goods to public procurement opportunities. The SWA would highlight the current discrimination against imported bottled in origin (BIO) spirits in the Canteen Stores Department (CSD), which is the wholly owned monopoly retailer under the Ministry of Defence. It is the channel that serves the personnel of the armed forces and has been a significant route to market for Scotch Whisky (worth $7.5m). This prohibition raises significant WTO compliance concerns. As such, while the SWA welcomes commitments from the UK Government to secure 'fair and non-discriminatory treatment' for UK

businesses seeking to access procurement opportunities, we do not believe that the UK should make any concessions in the FTA negotiations to secure compliance by India with its existing WTO obligations. Nevertheless, the negotiations do represent another pressure point to secure a return to the status quo ante.

12. Securing an FTA which delivers greater access for the Scotch Whisky sector into India will be transformational for the industry. These benefits would extend across Scotland and the UK more widely. Scotch Whisky currently represents 20% of all UK food and drink exports, 75% of all Scottish food and drink exports, £5.5 billion in gross value added (GVA) to the UK economy and supports 42,000 jobs across the UK. Modelling undertaken by the Fraser of Allander Institute at Strathclyde University suggests for every additional £1 million in exports of Scotch Whisky to India, 16 direct and indirect jobs would be created in the UK supply chain. While this would have benefits across the UK, the positive impacts would of course be particularly significant in terms of Scottish businesses. This is particularly important for SMEs which have previously struggled to enter the Indian market due to the high costs and regulatory complexity. We also note that in the strategic approach it is stated that, as of April 2021, DIT had not yet conducted modelling to determine the impact that tariff liberalisation would have on consumer prices and subsequent demand from British products in India. We would urge DIT to work with industry to produce such modelling, building on previous modelling exercises produced by industry. There should be a focus on not only the impact of tariff liberalisation, but also tax policy, harmonised regulations, and other ease of doing business issues on demand for British goods in India.

13. The Scotch Whisky industry has warmly welcomed the launch of negotiations, as well as the UK Government’s strategic approach which recognises the barriers that must be overcome to ensure success for the Scotch Whisky sector and the potential merits of an Interim Agreement. Achieving this will require, in many cases, proactive and creative solutions. The SWA appreciates the opportunities we have had to engage with Government on these points thus far, both through the formal consultation process and further discussions at technical level. It is encouraging to see these priorities clearly reflected in the UK Government’s strategic approach and negotiating objectives. With negotiations now underway, the SWA would encourage negotiating teams to continue this engagement and intensify it. As previous negotiations have shown, there is significant merit in collaborating with industry and other stakeholders from the outset in order to ensure the final outcomes of the negotiations accurately reflect the needs of UK business, and to understand the scope and limits of any compromises. This can be secured via existing structures, such as the Trade Advisory Groups, but also requires more detailed bilateral discussions on specific issues, which recognise the sensitivity of the negotiations. Making use of these structures will also ensure industry can properly support DIT in delivering an ambitious UK-India FTA.