

## Written evidence from the Scotch Whiskey Association (BRF0018)

### Introduction

The Scotch Whisky Association (SWA) works to sustain Scotch Whisky's place as the world's leading high-quality spirit drink and its long term growth worldwide. The Scotch Whisky industry adds over £5 billion a year to the UK economy, supporting over 40,000 UK jobs in the process, and generates over £4 billion in export sales annually, making us the biggest net contributor to UK trade. We account for around 80% of all Scottish food and drink exports and 20% of all UK food and drink exports.

Brexit offers challenges and opportunities that cut across all aspects of our business. As it stands, there is significant uncertainty about the rules that will apply to our industry immediately after March 2019, and the terms of the UK's future trade relationship with the EU and with other overseas countries beyond that date. Early commitments from the UK and EU on transition are required to reduce this uncertainty. At the same time, the Scotch Whisky industry is adaptable and used to dealing with fast moving events. Our products are currently exported to over 180 countries around the world and our companies constantly have to adjust to changes in local market conditions. In the long-term, there are some trade policy and domestic reform opportunities arising from Brexit that should be delivered to help boost growth and investment in our industry.

The SWA stands ready to make sure that all the implications of Brexit to the Scotch Whisky industry are fully understood by the Scottish and UK Governments and by EU negotiators so they can be factored into a successful conclusion of the negotiations.

### Priority issues for the Scotch Whisky industry:

#### 1) Transition period

The SWA welcomes the Prime Minister's announcement in September that there should be an "implementation period" of around two years after March 2019, and the framework for this should be the "existing structure of EU rules and regulations".

The concept of a transition period to deliver a smooth Brexit process is sensible. This is needed to ensure that after the UK has left the EU, the correct domestic regulatory framework is in place, the benefits of EU free trade agreements (FTAs) are retained, and companies are prepared well in advance for any changes to exporting procedures that are required.

In order to support business planning and provide certainty to the industry and EU citizens, we now call on the Government to confirm the details of this transition period with the EU and for this to be jointly announced as an early deliverable of the Brexit negotiations by March 2018.

This is necessary so that businesses do not have to implement emergency contingency plans to prepare for the possibility of a 'no-deal' scenario or any unplanned changes coming into effect after March 2019.

#### 2) Clarity on future customs and excise procedures

**The UK must deliver a well-functioning system governing the holding and movement of excise goods to allow Scotch Whisky to be exported to and via the EU as efficiently as possible.**

A customs agreement that encourages trade between the UK and EU is essential. Unlike many other sectors, Scotch Whisky faces additional complexity as it is an excise product and is subject to EU-wide rules governing movements within the EU. It is vital that the UK Government considers the needs of excise goods in the future arrangements.

The UK must make sure Scotch Whisky can be exported as efficiently as possible after the UK leaves the EU. The two options presented in the UK Government's August 2017 'Future Partnership Paper' have the potential to meet that objective. The 'highly streamlined customs arrangement' (option 1) could be delivered by March 2021 if the final specifications are made available by early 2020. Option 2 would require a much longer lead-in due to its untested nature. In the meantime, current arrangements must continue to apply in full, which means continued use of the electronic Excise Movement and Control Scheme (EMCS) for UK-EU movements during the transition period.

It is important that even if EMCS can no longer apply for UK-EU movements in the long-term, the UK Government must maintain the principle that excise goods can be held and moved in duty suspension in a paperless environment. EMCS should therefore be retained for all intra-UK movements, including after the transition period. A solution also needs to be developed for movements between the UK and Ireland.

We are concerned that the current import and export system (CHIEF) will be unable to handle additional trade volumes on Brexit. Its replacement, the Customs Declarations Service, must have the capacity to handle the rise in declarations post-Brexit and be delivered on time, by the end of 2018 at the latest. A failure to do this is certain to lead to costly delays when exporting our products overseas.

### **3) Securing a comprehensive UK-EU free trade deal**

**The new trade partnership with the EU27 must consolidate the inter-linked nature of the existing UK-EU economic relationship and successfully prevent new barriers to trade from emerging in the future.**

The SWA supports a trade deal with the EU27 that is comprehensive in its coverage. Even if no trade deal is agreed - a worst case scenario - Scotch Whisky will continue to be exported to the EU without a tariff because of WTO rules. This is not the case for many other sectors. However, in this scenario, our competitiveness could still be put at risk by new tariffs on supply chain inputs, including glass bottles (3-5%), closures such as corks (up to 5%), distilling machinery (1.7%), and cereals (e.g. €93/1000kg on barley). The goal should therefore be full tariff liberalisation.

A future trade deal between the UK and EU also needs to address regulatory issues. The EU single market has been very beneficial to our sector, as it ensures harmonised mandatory rules exist on production, labelling requirements and food safety laws that all businesses and consumers across the EU benefit from. In the new trade partnership, it is important there is genuine regulatory co-operation between the UK and EU - a failure to do this will lead to regulatory divergence, and therefore new non-tariff barriers.

A comprehensive UK-EU trade deal must be backed up by structures that allow for private sector consultation as new trade-related issues arise, and binding dispute settlement mechanisms to ensure the agreement is enforced.

#### **4) Improving market access around the world**

**The UK must as a first priority retain the benefits secured through EU trade deals with markets around the world. For Scotch Whisky, this means avoiding higher tariffs in markets like South Korea, Dominican Republic and Colombia.**

Under WTO rules, Scotch will continue to benefit from a zero tariff on exports to the likes of the EU, USA, Canada and Japan. However, there is a risk of losing significant benefits, including lower tariffs, secured through the EU's bilateral FTAs with markets representing around 10% of Scotch exports. This includes some 'Top 25' export markets for Scotch like South Korea, Dominican Republic and Colombia, where new tariffs would range from 15% to 20%. The UK needs to agree a mechanism to ensure that all market access wins secured through these FTAs over many years of hard negotiation do not fall after Brexit. This will require agreement involving the UK, EU and the relevant countries.

Once these short-term issues have been resolved, we then want to see the UK negotiate its own ambitious FTA network. For the SWA, our priorities can be split into three main parts. First, we want to boost access into major emerging markets, such as India, China and Brazil. In India particularly, the Scotch Whisky industry is faced with a 150% tariff together with a host of trade barriers, and the opportunities for our industry are vast if improved market access can be achieved. Second, we want to see progress in boosting our exports to smaller, fast-growing markets with potential, including Kenya, Nigeria and Myanmar. Third, the UK should target quick results with established markets where further growth is possible, such as Australia and Thailand.

To help develop priorities, the UK should put in place a formal, permanent trade policy stakeholder advisory network, comprised of individuals who can demonstrate significant expertise in trade policy matters relating to their sector. This will help provide the UK Government with the technical input it needs from business to carry out a successful trade policy agenda.

#### **5) Robust legal protection in the UK, EU and global markets**

**After the UK leaves the EU, the UK must have in place a robust legislative framework for GIs, including a UK GI register which incorporates domestic GIs and all GIs currently protected in the EU, and a facility for recognising new GIs in the future.**

Scotch Whisky's legal recognition as a product that must be produced in Scotland according to a defined set of rules is of great value to the industry. This helps ensure that Scotch Whisky has an unmatched international reputation as a quality spirit drink that consumers can enjoy and crucially, it helps greatly when securing the removal of 'fakes' from the market place.

The UK's laws for the recognition and protection of GIs should follow the same substantive provisions set out in the relevant EU regulations, together with the inclusion of a GI register so it is clear which GIs are protected. The UK and EU also need to ensure the transition of the Scotch Whisky GI from a protected 'EU GI' to a 'non-EU GI' protected in the EU is seamless.

For third country markets, the UK should preserve the GI protection of Scotch Whisky secured through existing EU agreements, which is a key issue for markets like South Africa and South Korea.

#### **6) Business certainty through the EU Withdrawal Bill**

**The SWA supports the EU Withdrawal Bill's aim to provide clarity and consistency, with all relevant EU laws transposed into UK law. However, close consultation with industry will be necessary to deliver regulatory certainty and avoid unintended consequences flowing from secondary legislation which affects our operating environment.**

The Scotch Whisky industry values a wide range of EU laws which have been positive for businesses and consumers across the single market. EU rules covering category definitions, production and labelling, such as the EU spirit drinks regulation and the EU food labelling regulation, are of fundamental importance to our sector and need to be brought into UK law.

Important UK legislation made further to the European Communities Act 1972 also needs to be retained after the UK leaves the EU, as the EU Withdrawal Bill seeks to do. For our sector, priorities include the UK Scotch Whisky Regulations 2009, which all Scotch Whisky producers must comply with, as well as the UK Spirit Drinks Regulations 2008, which enforces EU legislation. We should be consulted where minor adaptations to these laws are required so they remain fit for purpose after the UK leaves the EU.

#### **7) Creating a domestic platform to support post-Brexit growth**

**The SWA supports the creation of a business environment that is more favourable to future investment and growth - through Brexit and beyond - through an ambitious sector deal for spirits as part of the UK's industrial strategy.**

Domestic policy levers should be used to stimulate growth in the UK economy after Brexit. Regarding taxation, a fairer, simpler approach to alcohol taxation unconstrained by the EU excise directives and based purely on alcohol content would be positive for our sector. There are currently 16 UK tax bands for alcoholic beverages. The UK leaving the EU, free from the constraints of the EU excise directives, provides an opportunity for a much-needed review of alcohol taxation in the UK.

Regarding energy policy, seven Scotch Whisky sites currently fall into the EU's Emissions Trading Scheme (ETS). A simpler and fairer energy policy that treats all distilleries fairly would be achieved through a reformed Climate Change Agreement better suited to industry needs and sitting outside the EU ETS.

Finally, the re-introduction of duty-free arrangements for travel to and from the EU would provide an important boost to our sector, whilst also helping to support jobs in UK towns with ports and airports. Since 1998, UK duty free sales of Scotch Whisky have declined from 1.2 million 9-litre cases to 400,000 cases. A recent York Aviation report estimates that the return of duty-free to UK-EU travel would create 9,300 new jobs and deliver a £0.9 billion net gain to the UK economy. This is an important economic opportunity that could be attained quickly after the UK leaves the EU.

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