

**Culture, Tourism, Europe and External Affairs Committee**

**Inquiry - Article 50: Preparedness**

**Written submission from the Scotch Whisky Association**

**What impact the Article 50 negotiations have had upon your business / organisation to date?**

The UK's decision to exit the EU will have a clear impact on the Scotch Whisky industry not just due to the EU market representing 30% of all Scotch Whisky exports but also due to the nature of food and drink / international trade regulation, impacting the UK, which has been shaped at the EU over many decades.

The Scotch Whisky Association (SWA) has a strong understanding of the EU institutions and the policy-making process built up over many years. We have been active in Brussels, with the help of our EU trade body spiritsEUROPE, to ensure that EU regulations governing the supply chain, manufacture, and distribution of spirits works in the interest of the Scotch sector.

In order to prepare for the UK's exit from the EU, we estimate the Scotch Whisky industry has spent millions of pounds on a range of contingency planning activities, and these costs could escalate significantly if uncertainty linked to Brexit continues. We therefore strongly support a Withdrawal Agreement that confirms a transition period until at least December 2020. This would provide the industry with more certainty about all the rules and procedures it will need to comply with after 29 March 2019.

**What preparations, if any, are being made by your business / organisation for the range of scenarios which may result from the Article 50 negotiations?**

As part of our work on Brexit issues, the SWA has prepared a Brexit planning toolkit to support our member companies with their preparations. The document addresses practical issues which businesses in our sector could face as a result of Brexit. Key issues addressed in the document include:

- **Border and tax issues:** Raising awareness of export procedures, particularly for those companies who only currently trade inside the EU (such as SMEs). Noting the uncertainty surrounding the future use of EU Excise Movement and Control System for duty-suspended excise movements. Impact of delays at ports and associated costs. Administrative requirements such as changes to origin certificates, VAT and trusted trader status.
- **EU trade issues:** Changes to labelling required to meet EU third country rules such as possible addition of importer details on bottles and packaging. Impact of potential tariffs should a future deal on tariff-free goods not be achieved, potentially affecting imported inputs such as glass, machinery and closures. Preparation for possible re-introduction of duty-free.
- **International trade issues:** Assessing the potential risk of additional tariffs in markets where we currently have preferential access via an EU FTA or other such agreement. Identifying opportunities in a UK with an independent trade policy.

- **Legal /financial issues:** Assessing the impact on contracts, currency and the macro-economic environment, intellectual property rights, and data transfers.
- **Workforce issues:** Understanding procedures to ensure EU nationals based in the UK can continue working in the sector.

By distributing the SWA Brexit Planning Toolkit to our membership we aim to support our member companies in making their own, informed, commercial decisions on how best to proceed.

### **What you consider the impact of a no-deal outcome would be for your business / organisation?**

While we note the UK Government's advice that it believes a no-deal Brexit to be an unlikely outcome to negotiations, we appreciate the need to plan for all outcomes. It is clear that a no-deal scenario would be of significant concern to the Scotch Whisky sector. Some of the risks posed to the sector from a no-deal would include:

- **Disruption to trade with the EU:** Around 30% of all Scotch Whisky exports are to the EU with France being the largest importer of Scotch by volume in the world. A no-deal Brexit could lead to increased delays and costs of moving excise goods into the EU market. The UK would be a third country to the EU and therefore outside of the EU Excise Movement and Control System (EMCS) which allows for the duty-suspended movements of excise goods across the bloc. As a third country, companies would need to submit customs declarations for product entering the EU market.
- **Barriers to trade with the EU:** As a third country the UK would need to comply with EU Single Market rules for products it sells in the bloc. New requirements would be added to Scotch Whisky labels to comply with the EU Food Information to Consumers Regulation which requires third country imports to include the details of the food business operator or, if that company is not established in the EU, the importer details. This is likely to impact SMEs in particular and would create additional costs due to the need for more types of labels being printed (e.g. additional SKUs).
- **Tariffs with third countries outside the EU:** In a no-deal Brexit the UK could lose its preferential market access to countries with which the EU has negotiated Free Trade Agreements and other international treaties. We note that the UK Government is working on contingency plans for this. We would be very concerned if tariffs returned on Scotch Whisky exported to key markets such as South Korea, the Dominican Republic, Morocco, Panama and Lebanon.

### **To what extent, the guidance issued by the European Commission and UK Government has been helpful in helping you to prepare for the UK's withdrawal from the EU?**

We have monitored the release of all Brexit Preparedness Notices issued by the European Commission and all Technical Notices issued by the UK Government (to date). While we understand that both the UK Government and European Commission believe a no-deal to be an unlikely outcome to negotiations, it is of course prudent to offer advice on the implications of a no-deal scenario. We therefore welcome the advice which has been issued to date.

Of particular importance to the Scotch Whisky sector is the impact of a no-deal Brexit on Scotch exports to the EU and additional labelling requirements that may take effect at short notice. This includes the need for an EU address to be added to the labels of all third country imports to the EU which could significantly increase costs to companies, especially SMEs. We believe that a grace period for products entering the EU market in a post-no deal Brexit, consistent with the approach outlined in the UK Government's Technical Notice on Food Labelling (published 24 September) for imports to the UK, would be absolutely critical in the unwelcome scenario of a no-deal Brexit.

**What further support or guidance you consider the Scottish Government, UK Government and / or European Commission should be providing to enable individuals, businesses and organisations in Scotland to prepare for the UK's withdrawal from the EU?**

The SWA estimates that the cost to Scotch Whisky businesses for planning for the UK's withdrawal from the EU has run into millions of pounds, and this could escalate significantly further if the Withdrawal Agreement is not agreed. This has been incurred through the cost of practical contingency planning and the diversion of existing resources to manage Brexit impacts. We believe further guidance from the UK Government and European Commission will be necessary in the event of a no-deal scenario to minimise the commercial impact on businesses trading between the UK and EU. We call on all MPs and MSPs to ensure a no-deal scenario is avoided in March 2019. We also believe that the UK Government could help mitigate against some of the Brexit planning costs already incurred to date by confirming a freeze on Scotch Whisky excise duty in the Autumn 2018 Budget.