



BALANCE OF COMPETENCES BETWEEN THE UK AND THE EU

CONSULTATION ON EU ENLARGEMENT

SCOTCH WHISKY ASSOCIATION COMMENTS

Overview

The Scotch Whisky Association (SWA) welcomes the opportunity to provide input to the UK Government's Balance of Competences review.

The SWA is the industry's officially recognised representative body, responsible for protecting and promoting Scotch Whisky both at home and abroad. The Association's members export to over 200 markets worldwide; in 2013 industry exports were worth £4.3 billion, representing nearly 25% of all UK food and drink exports. (With member companies also owning the import and sales teams in many overseas markets, the real value to the industry and UK plc is far higher.)

In 2013, sales of Scotch Whisky within the 28 EU Member States totalled more than half a billion bottles, or about 41% of the industry's volumes. The EU is vital to the industry's long term sustainability, both as an internal market and as a strong voice in international trade negotiations.

The trade environment within the EU internal market, in which one set of common rules applies, is immeasurably simpler than the alternative in which 28 different regulatory regimes would operate. The EU rules, agreed with considerable and very helpful input from UK officials and MEPs, impact on almost every facet of the trade in Scotch Whisky. These include: spirits definitions; protection of 'geographical indications' (such as Scotch Whisky); labelling; taxation; a standardised range of bottle sizes; holding and movement of excisable products; and environmental issues.

While the internal market is not perfect, the existing arrangements permit the UK Government to help shape the rules which govern it; they also greatly facilitate the resolution of problems arising from the inappropriate application of EU rules. Securing and maintaining an optimal trading environment requires a strong UK presence when legislation is being prepared or amended.

The influence of the EU extends well beyond the single market. The Commission, again with considerable input from UK officials, has been a strong and effective supporter of the industry's wider interests in international trade negotiations whether at the multilateral, regional or bilateral level. It has also successfully secured the removal of tax and other discrimination against Scotch Whisky in third countries using the World Trade Organisation's dispute settlement mechanism. As the world's foremost internationally traded spirit drink, Scotch Whisky derives enormous benefit from the EU's expertise and negotiating muscle in the areas of trade policy and market access globally.

Consequently, the SWA is a strong supporter of maintaining the UK's active involvement within the EU. In the field of EU enlargement, we see no issues which require subsidiarity or to be repatriated to national level.

In the following sections we highlight our main observations concerning some of the questions in the consultation document.

Impact on national interest

- The SWA has been closely involved in each phase of enlargement. Our main aim has been to ensure the EU *acquis* is implemented and enforced in new Member States at the earliest opportunity and that any derogations and/or transition periods in our sector are kept to a minimum.
- The EU has grown to become the world's largest trading bloc, with more than half a billion consumers. The increased size provides further trade opportunities within the single market and, very importantly, increased weight and appeal for free trade agreement (FTA) negotiations with 3rd countries.
- EU enlargement has proved to be of huge importance to Scotch Whisky. Some countries that have joined over the last 25 years have become the industry's most important export destinations:
 - Before its 1986 accession, exports to Spain were typically £20 - 30 million a year. 10 years later they averaged over £200 million; between 2003 and 2010 they exceeded £300 million on 4 occasions. (The economic crisis has badly dented exports in recent years.)
 - Exports to Greece were worth £10 - 15 million a year between 1980 and 1985. Exports rose markedly after the 1986 accession removed trade barriers; they exceeded £100 million 4 times between 2003 and 2010. Before the crisis, Greece was, probably, the country with the highest per capita consumption of Scotch Whisky in the world.
 - In 2013, Scotch exports to Poland grew to £60m, more than 10 times the level when it acceded in 2004.
- Accession countries have had to harmonise trade laws and thereby remove barriers. Among other things, this has seen the elimination of high tariffs, quotas, preferential tax rates, import permits, inappropriate laws defining whisky and national labelling rules. Extension of the Single Market and the free movement of goods principle has been massively helpful.

Exercise of competence

- While the accession negotiations are led by the Commission, the UK's influence on the process has been extremely helpful for the Scotch Whisky sector. The dialogue in London, Brussels and capitals of the accession candidates has proved to be of huge value in understanding legislative and other concerns and in securing early change or application of the *acquis*. Among other things, the UK was instrumental in establishing 2 opening benchmarks in Turkey's accession negotiations, one of which has already addressed long-standing tax discrimination against Scotch Whisky. Early movement on tax and tariffs in Hungary, Poland and Romania were also largely at the UK's insistence.
- We hope that the recently opened accession negotiations with Serbia will lead to the removal of the existing excise discrimination against Scotch Whisky at the earliest opportunity. We are very grateful for the support of UK officials in that regard.

Future options and challenges

- Many new EU members have been granted derogations from the general principle that all spirits should be taxed in an identical manner. The derogations are often poorly enforced, with the consequence that huge quantities of low- or no-tax distillates are found in commercial sales channels. Many of the countries along the EU's eastern border have unsustainably high levels of tax-unpaid spirits on the market.

- The absence of controls on home distillation and the derogations for 'small' distillers have fostered a culture of tax avoidance; this is exacerbated by poor excise tax enforcement of commercial distillers. The situation endangers consumers' health, damages public revenues and undermines fair competition. It also kills: in 2012 more than 40 consumers died from illegal alcohol in the Czech Republic; deaths from illicit alcohol are reported regularly also in the Baltic countries, Poland and elsewhere.
- In the interests of consumer safety, fair competition and excise collection, we believe substantial improvements in this area are required. The Commission is due to review some of the excise tax derogations in 2015 and we hope this will result in a major shift from illegal to legal sales channels.
- There have regularly been concerns raised that some countries are admitted prematurely. While Bulgaria, Cyprus and Romania would be the obvious candidates, recent developments suggest Hungary's EU credentials are not deeply embedded. The frequency with which some countries are ready to introduce measures in the full knowledge that they are not EU-compatible is a matter of great concern.
- Turkey's accession negotiations have been hampered by political difficulties in both camps. We continue to support the accession negotiations with Turkey because implementation of the EU *acquis* in our sector would remove barriers, introduce *acquis*-compatible trading conditions and help exports. Regrettably, however, prospects currently do not look good.
- In the event it is agreed that something short of accession is the only viable option, we hope this will also secure improvements in trading conditions. The possible upgrade of the Customs Union Agreement may be one route (it needs, at the very least, decent dispute settlement mechanisms and better enforcement of the obligation to notify draft laws).

Conclusion

The UK's EU membership provides significant benefits in improving trading conditions for Scotch Whisky. Scotch Whisky is the EU's most important geographical indication spirit, and the UK government has a vital role in ensuring the enlargement process extends the advantages of the Single Market to new Member States. The Association therefore sees no advantages in altering the current balance of competences in this area.

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