



SWA SUBMISSION TO PARLIAMENT OF AUSTRALIA, JOINT STANDING COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE, TRADE SUB-COMMITTEE

AUSTRALIA'S TRADE AND INVESTMENT RELATIONSHIP WITH THE UNITED KINGDOM

Introduction

The Scotch Whisky Association (SWA) thanks the Inquiry Secretary for inviting our views on the UK's future trade relationship with Australia and whether a bilateral trade agreement can help overcome any impediments to trade and investment between our countries as well as help to grow business opportunities for Scotch Whisky producers exporting to Australia.

As you may know, the SWA is the representative body of the Scotch Whisky industry with 66 member companies ranging from very large multinationals, like Diageo and Pernod Ricard, to much smaller companies. All are distillers, blenders, bottlers, brand owners, brokers and exporters of Scotch Whisky and together they account for around 95% of Scotch Whisky production.

Scotch Whisky Exports to Australia

Australia has long been an important market for the industry, as can be seen from the graph below. Currently when compared with other direct export markets for Scotch Whisky Australia ranks 9th in value terms and 11th in volume. The export value of direct exports to Australia was over £100 million in 2016.

Annual consumption of Scotch Whisky in Australia by best estimates is 18 million bottles out of a total spirits market of 88 million bottles (20% approx.).

Our industry strongly supports efforts to maintain and improve trading relations upon the UK's exiting the EU. Although the British Government cannot enter into new Free Trade Agreements until after Brexit, we have already informed them that Australia is one of the countries with which we believe an early FTA would be beneficial. From our perspective, there are various issues whose resolution we would welcome and these are set out below; no doubt there are issues that Australian industry would like to see the UK address. We have a good relationship with the Distilled Spirits Industry Council of Australia who we would aim to work with closely on any agreement.

Import Duty

Australian whisky (and other spirits) entering the UK qualifies for a zero tariff.

A key objective for any future UK-Australia FTA would be the immediate elimination of the 5% ad valorem import duty which Australia levies on spirits from the UK.

At 5% *ad valorem*, Australia's import tariff on spirits is considered in trade parlance as a 'nuisance tariff'. Its elimination is one of the whisky industry's top priority objectives for the WTO Doha round. To date, despite highlighting the benefits this would bring including for the Australian consumer and their providers (retailers, wholesalers, distributors etc.), Australian governments have not removed the tariff.

With the Australia/US FTA in operation, US whiskies have tariff free access and an advantage over Scotch Whisky.

Excise Tax Discrimination

Australia currently differentiates between brandy (of which the majority is locally produced) and other spirits (of which the majority are imported). Our view is that this difference in tax - whisky and other spirits (A\$82.27 per lpa) versus brandy (A\$ 76.84) - is clearly intended to protect the Australian brandy industry. The difference is of long standing and has been perpetuated by index-linking. Australia is therefore in breach of its WTO obligation under article III.2. and III.4 which require 'like' imported and domestic products to be treated identically as regards internal taxation and 'directly competitive or substitutable products' to be taxed similarly. WTO jurisprudence has identified all spirits as either 'like' or 'directly competitive or substitutable' with one another and defined 'similarly' as a differential of no more than 3%.

We would expect that a future UK-Australia FTA would include the early equalisation of the whisky and brandy rates, preferably by lowering the former to the latter level.

We also support DISCA's position on a single volumetric tax rate for all alcohol beverages, which has been discussed in the Red Tape Senate Committee recently. Such a tax supports consumers' choices and recognises that all alcohol is the same, regardless of the type of beverage. A single rate volumetric tax would be simpler, fairer, and more efficient, ending the discrimination between drinkers.

Whisky Definition

The definition of whisky contained in the Food Standards Code could be improved. The reputation of the whisky category in Australia has been built by traditional whiskies such as Scotch and Irish, and more recently on high quality Australian Whiskies. These spirits are produced from cereals, distilled in a way so that they retain the flavour deriving from their raw materials, and are bottled at 40% abv without the addition of artificial flavourings. Australian consumers are accustomed to drinking whisky produced in this way.

Prior to 2000, the Australian definition reflected this but following the adoption of the ANZFA Code, the requirements were loosened. The provisions of the code are and ambiguous in parts making them difficult to enforce. For example whisky is only required to have "the taste aroma and other characteristics generally attributable to that particular spirit" which makes it extremely difficult to prove that a product is non-compliant. The SWA has seen a number of spirits on sale in Australia described as "Whisky" but which do not comply with the traditional definition of whisky. These deceive consumers and compete unfairly with the producers of high quality whiskies, who have built the reputation of the whisky category.

The SWA would like the question of a legal definition of whisky to be explored in the context of future FTA negotiations.

Conclusion

The SWA is strongly supportive of a continuing good trade and investment relationship between the UK and Australia. We believe a future bilateral FTA could provide the opportunity for improvements in that relationship.

The Scotch Whisky Association, Edinburgh

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Direct Exports of Scotch Whisky to Australia

