

## Treasury Committee Inquiry

### The economic and financial costs and benefits of UK's EU membership

Written evidence submitted by the Scotch Whisky Association

#### Introduction

1. 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. Its member companies account for around 95% of the industry. We work towards fair market access, a competitive and sustainable business environment, safeguarding the category 'Scotch Whisky' against unfair competition, and promoting the responsible use of alcohol.
2. Securing the best possible commercial environment for Scotch Whisky is vital to the Scottish economy, as Scotch Whisky represents around 10% of all Scottish exports to the EU. It is also important to the wider UK economy, as the industry generates £4bn in exports annually, a third of which goes to the EU.
3. We therefore welcome the Committee's inquiry into the economic and financial costs and benefits of the UK's membership of the European Union. This evidence addresses various issues raised in the inquiry's Terms of Reference.

**The overall economic costs and benefits of membership; how the balance of costs and benefits might change following the UK Government's negotiation efforts and in the light of the euro crisis. The sensitivity of any cost-benefit analysis to the terms on which the UK might leave the EU.**

4. Overall, the SWA believes that the overall costs and benefits of EU membership, as they affect the Scotch Whisky industry and those who work for it, support continued EU membership.
5. There are certain aspects of EU membership that are of significant economic importance to the Scotch Whisky industry -- the single market, trade, protection of the Scotch Whisky Geographical Indication.

6. More specifically:
  - a. Given the scale of Scotch Whisky exports to the rest of the EU, the single market is of key importance to us. Annual shipments to EU markets in 2014 were £1.24bn or 31% of the value of the industry's global exports. France (2nd), Spain (5<sup>th</sup>), and Germany (6th) all feature in the industry's top ten global export markets. The trade environment within the Single Market, in which in theory one set of common rules applies, is much simpler than the alternative in which 28 different regulatory regimes would operate. (That said, there remains scope for significant national rules which complicate things further - see below.)
  - b. It is not just the single set of rules that is important - it is also that they are largely liberal and market-opening. That is in part because of the influence the UK has had over the years on setting them, and it is therefore also important that the UK Government retains an influence on single market legislation.
  - c. Scotch Whisky exports benefit from the trade liberalisation secured by the EU, notably in the ongoing programme of bilateral Free Trade Agreements. Scotch Whisky is regarded by the Commission as an important element of major trade deals.
  - d. Finally, it is an advantage to have the "Scotch Whisky" Geographical Indication protected at EU level, enforced across the Single Market, and incorporated into EU trade deals.

**The terms on which the UK might leave the EU, and the likelihood of it securing continued access to EU goods, services and capital markets**

7. Whatever the final terms of any deal to withdraw from the EU, they would clearly take time, probably several years, to define, negotiate, and implement. The uncertainty over this period would in itself be a business risk to the industry, partly because the final terms would be unclear, partly because plainly no effort would be made over this period to accommodate the industry's concerns either in the single market or in trade deals.
8. As to the final steady state, clearly much depends on the kind of deal negotiated. Different aspects raise different issues.
  - The EU's external tariff on spirits is already zero and it would have to remain so under MFN arrangements.
  - However, there would be other costs.
  - A Norway arrangement or a goods FTA under a Switzerland-type deal would leave Scotch Whisky needing to demonstrate compliance with wider rules of origin arrangements for imports into the single market. The extra process would still increase costs.

- Over time, the UK's ability to influence single market law in areas that matter to the industry could be affected. For example, rules on labelling might be set in ways that suited other GIs or spirit drinks but not Scotch Whisky, whose success has depended on the most rigorous possible protection of the category.
- Since the UK would not be part of the EU customs union, access to and influence in developing EU-wide customs and movements arrangements (EMCS and SEED) would be lost, unless specific arrangements to replicate it could be negotiated.
- the SWA's ability as an Association to influence the Commission direct to enforce single market law, ultimately in the European Court of Justice, would of course be weakened.

**The wider impact of EU membership on the UK's trade in services and the possible impact of 'Brexit' on services generally and financial services in particular**

9. No comments. Scotch Whisky is a manufactured good.

**The EU's regulation of products and markets in implementing the Single Market; costs and gaps in the completion of the Single Market; compliance of EU regulations with subsidiarity and proportionality**

- Existing single market arrangements in the spirits drinks area are far from perfect. Overwhelmingly the legislative rather than mutual recognition route has been taken over the years, and the rules have over time become complex. In many of these areas some reforms would be useful in the direction of a freer and simpler single market, with the elimination of unnecessary national regulations. The SWA supports the Government's reform efforts in this broad area and clearly achieving anything in this direction would be more difficult if the UK were not an EU Member State.
- To take just some examples:
  - legislation on bottle sizes is a good example of a success in EU rule-making. Before the existence of EU legislation (most recently Directive 2007/45/EC) bottle sizes could vary widely and it was possible for consumers to be misled as to the relative prices of products. This is not now possible as bottles must come in one of a small number of standard sizes. This enables Scotch Whisky producers to implement economies of scale for production across the EU.
  - labelling rules have generally worked well but improvements are possible. There is a single legal regime for labelling across the EU, but in practice that regime is very complex. To illustrate this, Annex A summarises all the legislation that currently applies to alcoholic drinks labelling in the EU. Moreover, there is also considerable scope for national discretion in certain areas of labelling, and again the UK uses this discretion as others do: Annex B sets out, in simplified form, where national requirements impose extra costs over and above the EU "norm". Keeping tabs on all this and implementing it correctly, particularly for SMEs, is not straightforward and imposes costs. Simplicity and durability of the regime could be improved.
  - excise duty structures are set at EU level. There are very different taxation structures for different alcoholic drinks products, reflecting the balance of negotiating interest when the Directives were agreed in the early 1990s, and distorting competition between categories. For example, the *minimum* rate on a (UK) unit of alcohol in beer is €0.0187, in wine is zero, and in spirits is €0.055 or

€0.1<sup>1</sup>. This freedom to discriminate is exploited by Member States (and in most cases actual rates on many products are much higher), as much by the UK as any other. It is made more complex by the existence of derogations for some countries' local spirits (eg Hungary) or production in overseas territories (eg France). This means that tax varies wildly across the single market. The SWA would favour amendment of the excise duty structures directive to ensure all alcoholic drinks can be taxed according to alcohol content.

- finally, there is no common definition of a unit of alcohol or a "standard drink" across the EU. National definitions vary between 8g and 13g of ethanol (the UK uses 10ml or 8g). This increases the complexity of providing information relating to responsible drinking across the EU.

### **The implications for EU market access of a divergence of the UK's regulatory framework from that of the EU, were 'Brexit' to occur**

12. The preceding section shows that, at least in aspects of production, producers must even today still produce for 28 national markets across the EU. If the UK left the EU, it is certainly possible that aspects of regulation would diverge over time, either because of UK decisions or EU decisions. As long as these did not touch essentials, they would add costs at the margin but not fundamentally change the current situation.
13. However, as in so many areas of the EU's regulatory work, effective lobbying by the UK has over the last couple of decades extended rules designed for the UK (ie in this case Scotch Whisky) to the whole of the EU via EU legislation (so that whiskies across the EU have to respect norms designed for Scotch Whisky). If the UK left the EU, it would be possible for EU norms to be changed and for some of this natural competitive advantage to be eroded, particularly if it should ever be possible (as it is in the US) for whiskies to be produced in a less tightly defined way. That does not look a likely outcome now, but it would be rash to rule it out over the long term.
14. Moreover, in many areas EU regulatory practice constitutes best practice for third countries, and many regulators, even in major economies such as China and India, look to the EU regulatory regime as an exemplar. Not being at the table when the EU regulates could therefore affect the industry outside the EU as well as within the single market, and we would have to comply as standard takers rather than, in part at least, standard makers.

### **The economic effects of the free movement of people, particularly on the labour market and public finances, and the impact of alternative immigration and social policies**

15. We have no evidence to offer which differs from that of the main business associations.

### **The extent to which EU membership attracts and maintains inward investment to the UK, and how UK investments in EU and third countries might be affected by Brexit**

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<sup>1</sup> [1] The minimum rate for spirits was set at €550 per hlpa, unless the rate in the relevant Member State was already above €1,000 per hlpa in which case it could not fall below this level.

16. As with other Geographical Indication products, Scotch Whisky is in a fortunate position because it must be made within a defined area - ie Scotland. So it is not open to Scotch Whisky producers to shift production elsewhere even if the UK left the EU. In any case recent years have been characterised by considerable foreign investment in the industry, in response to booming global demand for Scotch Whisky rather than access to the single market alone.
17. Single Malts must also be bottled in Scotland and partly (though not wholly) because of this requirement producers have invested in major bottling and logistics hubs in Scotland which bottle products going well beyond Scotch Whisky. However, some bottling of non-single malts does take place outside Scotland and indeed outside the EU. More of this might happen, in slower time, if the UK left the EU. However, it is hard to see the logic of moving bottling to the EU simply to gain access to the single market since the external tariff would be zero anyway and since the whisky would still have to be moved from the UK into the EU. Moreover, bottling is not normally considered to be sufficient transformation from a rules of origin perspective, so it would not enable advantage to be taken of the EU's Free Trade Agreements with third countries either.

### **The effect of EU membership on the UK's current account**

18. Scotch Whisky benefits significantly from the EU's FTAs with third countries. The EU's trade agreements generally, but not always, include provisions benefiting Scotch Whisky, for example tariff reductions, excise duty changes, or a range of "behind the border" rules which make it easier for Scotch Whisky to compete on level terms with local spirits. They also normally require the local authorities to protect and enforce the Scotch Whisky GI, making it easier for us to fight fakes and fraud in court. Good recent examples are the FTA with Colombia and Peru (now in force) and with Vietnam (just agreed in principle). The existence of these agreements enables Scotch to get into new markets at price levels which are affordable to local middle classes and therefore builds a market for the long term.

### Trade policy reform

19. The SWA supports the Government's wish to put more energy into the full range of FTA negotiations. We therefore think it important that the UK continues to exert its influence on FTA discussions and market access work more generally, via meaningful influence in the EU Trade Policy Committee and the Market Access Advisory Committee.
20. We certainly believe there could be further improvements to the EU's approach to external trade and FTAs. The Commission's priority in recent years has been on developed markets. There is a strong case to re-focus the FTA effort on emerging markets, such as India and Mercosur, where the biggest commercial gains are likely for the Scotch Whisky industry. We would also like to see the Commission being more creative in its approach to trade negotiations, with there being a case to move towards 'living agreements', i.e. providing a framework to negotiate issues that do not make it into an initial deal. The Commission also needs more resources to be able to play its lead role in international trade policy. DG Trade should be better resourced so that it is able to advance bilateral negotiations but also ensure what is agreed is actually enforced.

## If the UK left the EU

21. In principle if the UK left the EU then these agreements would no longer apply to the UK and Scotch Whisky would be excluded from any arrangements in them. This would certainly have a significant commercial effect on Scotch Whisky's prospects in many areas, potentially pushing excise duties and tariffs higher, and making it easier to exclude Scotch from the market. This would be on a large scale: the single market and existing FTAs currently cover almost 60% of the UK's overall trade, and this could rise to 88% if current FTAs are completed. The EU is successful in its current trade negotiations (much of which is accounted for by TTIP).
22. Presumably avoiding this would be a major concern of the UK Government after a decision to leave. It could be done in theory by negotiating transitional arrangements that preserved access to the FTAs. However, since freedom to negotiate the UK's own FTAs is one of the major putative gains of withdrawal, it is not obvious why the UK would wish to do this. Moreover, third countries accepting those arrangements could presumably not be assured. Alternatively, the UK could negotiate its own agreements with third countries with analogous provisions, though this looks a tall order to do quickly. It is hard to see how some impact on Scotch Whisky's prospects could be avoided.

## **Conclusion**

23. The Scotch Whisky Association believes it is important for the United Kingdom to remain part of the European Union. The EU's single market, including its regulation of food and drink, and its single trade policy, are central to Scotch Whisky's success. The single market allows distillers to trade across the EU simply and easily. The EU's weight and expertise in international trade helps Scotch Whisky secure fair access to overseas markets. In all these areas, the UK's continued influence in Brussels can shape the rules in a way that supports Scotch Whisky industry jobs and growth.
24. Nevertheless the SWA also believes that EU reform would be useful. The SWA would like a more free and efficient single market, the elimination of unnecessary national regulations, and for the EU to be even more ambitious and free-trading internationally. The Association continues to encourage the UK Government to secure progress in these areas as part of its reform agenda.

**Scotch Whisky Association  
November 2015**

## ANNEX A

### **LIST OF EU LAWS BRINGING LABELLING REQUIREMENTS FOR SPIRITS SOLD IN INTERNAL MARKET**

The list below lists the laws relevant to the labelling of spirits in the EU internal market.

Additives	Regulation 1333/2008, as amended
Age Statements / Maturation Terms	Regulation 110/2008
Alcoholic strength	Regulation 1169/2011
Allergens	Regulation 1169/2011
Best Before / Use By date	Regulation 1169/2011
Caffeine and Quinine - see Warning Statements	Regulation 1169/2011
Cartons (For Individual Bottles)	Regulation 1169/2011
Colours (for ago-dyes - see Warning Statements)	Regulation 1333/2008
Compound Terms	Regulation 110/2008, Regulation 716/2013
Contents / Net Volume	Directives 76/211 and 80/181; Regulation 1169/2011
Cream / Crème / Milk	Regulation 1234/2007; Decision of 20 Dec 2010
Distance Selling	Regulation 1169/2011
'e'-mark	Directives 76/211 and Directive 2009/34
Environmental Marks	Directive 94/62 as amended by Directive 2004/12. Decision 97/129
Fiscal marks	Directive 2008/118, replacing 92/12
Flavourings, including Natural Flavours	Regulations 1334/2008, 872/2012 and 1169/2011
Font Size for Mandatory Information	Regulation 1169/2011
Food Safety	Regulations 178/2002 and 882/2004
Genetically Modified Organisms (GMO)	Regulations 1829 and 1830/2003
Ingredient Listing	Regulation 1169/2011
Languages	Regulations 1169/2011 and 110/2008
Legibility of Mandatory Information	Regulation 1169/2011
Lot Code	Directive 2011/91
Mandatory Information	Regulation 1169/2011
Measuring Container Bottles	Directives 75/107 and 2009/34
Misleading Terms	Regulation 1169/2011
Multi-Packs	Regulation 1169/2011

National Labelling Requirements	Regulation 1169/2011 and national laws
Nutrition Labelling	Regulation 1169/2011
Nutrition and Health Claims	Regulation 1924/2006
Organic Foodstuffs	Regulations 834/2007 and 889/2008, as amended by Regulation 271/2010
Origin Labelling	Regulations 1169/2011 and 110/2008
Outer Cases	Regulation 1169/2011
Quantitative Ingredient Declaration	Regulation 1169/2011
Sales Denomination/Designation / Geographical Indications - GI)	Regulations 1169/2011 and 110/2008
Small Containers	Regulation 1169/2011
Trader's Details	Regulation 1169/2011; Directive 76/211
Warning Statements, i.e. relating to health messages, sweeteners, caffeine & quinine, glycyrrhizic acid, azo-dyes	Regulations 1169/2011 and 1333/2008 as amended by Regulation 238/2010.

## ANNEX B

### **SUMMARY OF ADDITIONAL REQUIREMENTS (LANGUAGE AND LABELLING) IMPOSED BY INDIVIDUAL EU MEMBER STATES, AND GOING BEYOND THE REQUIREMENTS AT EU LEVEL**

Articles 38 to 45 of Regulation 1169/2011 set out the conditions under which Member States may enact national labelling provisions, i.e. which go beyond the harmonised EU rules that are set out in the Regulation. Art. 38 limits national laws to areas that are not included in the Regulation and requires that such rules may not (a) discriminate against foods from other Member States, and (b) prohibit, impede or restrict free movement of goods that conform to the Regulation.

National measures can be justified (art. 39) on the grounds of the protection of public health / consumers. Member States that already require ingredient listing for alcoholic beverages may, under art. 40, maintain such rules pending the adoption of EU provisions in this area.

Under article 17.4.h of Regulation 110/2008, Member States can set out specific labelling rules in the Technical Files for the spirits with geographical indications which they register with the European Commission.

MEMBER STATE	LANGUAGE STIPULATIONS	OTHER REQUIREMENTS
<b>Austria</b>	- in a language “easily understandable” to consumers	- ‘Green Dot’ logo <sup>2</sup>
<b>Belgium</b>	- at least in the language or languages of the linguistic region in which the product in question is put up for sale	- ‘Green Dot’ logo <sup>1</sup>
<b>Bulgaria</b>	- in Bulgarian for basic information on the importer, producer and type of product.	- Waste management system logo <sup>1</sup>
<b>Croatia</b>	- in Croatian	- Environmental information: recycle logo; packaging raw material; deposit amount - Ingredient listing for spirits?
<b>Cyprus</b>	- in Greek	
<b>Czech Republic</b>	- in Czech	- additive and/or ingredient listing for spirit drinks
<b>Denmark<sup>3</sup></b>	- in Danish, or any other	- where refundable deposit is payable in

<sup>2</sup> Recycling / environmental schemes: either compulsory or a condition of participation in the national waste recovery/recycling schemes

MEMBER STATE	LANGUAGE STIPULATIONS	OTHER REQUIREMENTS
	language where the spelling “only differs immaterially from Danish”.	connection with a bottle refilling scheme, this must be indicated <sup>1</sup> on the label in text or by symbol
Estonia	- in Estonian, although may be on additional label to foreign language original	
Finland	- any allergen information must be in Finnish and Swedish <sup>4</sup> . Other mandatory labelling information may be given in a Community language other than Finnish or Swedish, provided it is comprehensible to the consumer.	
France	- in French	<ul style="list-style-type: none"> <li>- if name and address on labelling is that of the manufacturer or seller and that manufacturer or seller is <u>not</u> the bottler or person responsible for the bottling, then the bottler’s or importer’s details should also be shown.</li> <li>- it is recommended that any individual outer package (e.g. gift carton) show the lot mark in addition to EU labelling particulars</li> <li>- ‘Green Dot’ logo<sup>1</sup></li> <li>- Health Warning label: Since 3 October 2007, all alcoholic drinks are required to display a warning against drinking alcohol during pregnancy. The message must appear in the same visual field as the indication of alcoholic strength.</li> </ul> <p>Environmental label: From 1 January 2015 the ‘Triman’ logo will have to be applied to recyclable products. Glass packaging is exempt from the requirement. However, secondary packaging, e.g. gift cartons, is included in the scope of the law. The logo should appear on either of the following (in order of preference): the product, its packaging, its instructions, or elsewhere, including non-material options (which is understood to include websites).</p> 

<sup>3</sup> Prior to the introduction of 1169/2011, additives had to be listed, in Danish, by category plus name or E-number. This national requirement was repealed following the entry into force of the new Regulation.

<sup>4</sup> Norwegian or Danish may be used instead of Swedish, if the text is comprehensible for Swedish-speaking consumers.

MEMBER STATE	LANGUAGE STIPULATIONS	OTHER REQUIREMENTS
Germany	- in German	- 'Green Dot' logo <sup>1</sup> - colorants in spirits must be indicated on the label, using the phrase 'mit Farbstoff' ('with colouring')
Greece	- in Greek	- name and address of both the manufacturer and importer (the latter must also be in Greek) - statement of alcohol content must be at least 4mm for containers of 50cl and above; and at least 1mm on smaller containers
Hungary	- in Hungarian	- ingredient listing is required for all spirits
Ireland	- "in a language easily understood by purchasers"	- 'Green Dot' logo <sup>1</sup>
Italy <sup>5</sup>	- in Italian, although the particulars may be given in addition in other languages	- spirits bottled in Italy must show an 'excise number' issued by the local Finance Authorities on the label - liquid containers of materials other than glass must identify their raw materials
Latvia	- in Latvian (although may be on an additional label to foreign language original, possibly added by importer)	- 'Green Dot' logo <sup>1</sup>
Lithuania	- in Lithuanian	
Luxembourg	- in at least one of three specified languages - French, German or the language of Luxembourg	- list of ingredients for liqueurs
Malta	- in Maltese, English or Italian	
Netherlands	- in Dutch	- Health Warning label: in 2013, an agreement was made between industry and the Dutch Ministry of Health that alcoholic beverage producers should be encouraged to include a pregnancy logo. The logo must appear in colour or black and white and in the same visual field as the indication of alcoholic strength.
Poland	- in Polish	- details of both producer and importer
Portugal	- in Portuguese, without prejudice to the use of other languages; imported products may bear labels in	- list of ingredients for liqueurs - 'Green Dot' logo <sup>1</sup>

MEMBER STATE	LANGUAGE STIPULATIONS	OTHER REQUIREMENTS
	a foreign language provided the mandatory information is also shown, or affixed on another label, in Portuguese in characters of a size at least equal to the original	
<b>Romania</b>	- in Romanian	- ingredient listing for spirits
<b>Slovakia</b>	- in Slovakian	
<b>Slovenia</b>	- in Slovenian	
<b>Spain</b>	- in at least the official language of the linguistic region where the product is sold.	- spirits bottled in Spain must show on the label the registered number (allocated by the Ministry of Agriculture, Fisheries and Food) of the bottler - 'Green Dot' logo <sup>1</sup>
<b>Sweden</b>	- in Swedish or any language where the spelling only differs insignificantly from Swedish	
<b>United Kingdom</b>	- in English although other languages may also be used	- spirits sold in the UK must carry a 'duty stamp' incorporated in the label or affixed to the bottle. - voluntary agreement to display units, sensible drinking and other information on labels. - Food Standards Agency 2008 guidelines apply regarding misleading marketing terms, and how producers should use terms such as 'traditional', 'original', 'natural' etc.