



## **The Scotch Whisky Association's Comments on TRIS Notification 2017/245/HR - Draft Rules amending the Rules on Packaging and Packaging Waste**

The Scotch Whisky Association (SWA) would like to comment on the draft law amending the rules on packaging and packaging waste recently notified by Croatia (TRIS Notification 2017/425/HR).

By way of introduction, the Scotch Whisky Association is the Scotch Whisky industry's representative body. Its member companies, all of whom are distillers, blenders, owners of proprietary brands, brokers or exporters, together comprise around 95% of the industry's distilling and blending capacity.

In 2016 global Scotch Whisky exports were worth £4 billion. 31% of this value was generated in the European Union. Direct Scotch Whisky exports to Croatia were worth £3.3 million.

Regarding the draft rules amending the rules on packaging and packaging waste as notified by Croatia in June we have a number of observations and long-standing concerns about some of the aspects therein. Our concerns are in relation to the 'provisions concerning the heavy metal content in the packaging' and the 'marking of beverage packaging that is covered by the refundable fee scheme'. These measures have, in fact, been in place for years, but are only now, belatedly, being notified. We welcome the opportunity to officially comment on them now.

### **a) Packaging Certification and Approval Requirement - Barriers to Free Movement of Goods**

Article 9 sets out that a certificate of heavy metal concentration levels in the packaging material is required which shall be presented to the competent inspection authority, i.e. the Fund for Environmental Protection (FEP), upon request at any time.

This requirement was introduced in 2015. Originally, a letter/certificate from the company headquarters was deemed sufficient, yet since autumn 2016 the certificate has to be issued by an accredited laboratory - with the respective cost implications for producers. In addition, producers/importers have to confirm that their bottles comply with EU Regulations 1935/2004 and 2023/2006. Only after the FEP has confirmed that the packaging complies, the product can be put on the Croatian market.

Article 23.2 requires traders to submit a sample bottle for any single new or amended product for

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approval by the FEP before it can be placed on the market. These bottles are not returned. In the case of premium Scotch Whisky brands this means considerable financial losses for importers.

Both measures, the obligation to provide a certification of conformity with EU packaging rules and the requirement to submit bottles for prior approval, impede the circulation of products that are legally on sale in other EU Member States and contravene the principle of free movement of goods in the EU. The results are delays in the importation process and significant, unjustified costs for traders.

## **b) Additional Labelling Requirements - Technical Barriers to Trade**

We welcome the fact that Croatia proposes to make the packaging material logo, which has long been a mandatory requirement, voluntary (Art 13.5). However, regrettably, other additional environmental labelling requirements remain in place. These go above and beyond the food labelling rules set out in EU Regulation 1169/2011 and include a recycling logo, a logo for returnable packaging and a returnable fee system logo.

We are not aware that any of these logos are compulsory anywhere else in the EU. In fact, when EU Member States looked at a Commission proposal back in 1996 (COM(96)191 final) which proposed some of the symbols now required by Croatia for the marking of packaging, they concluded that these logos were neither appropriate nor necessary. Member States doubted that consumers would understand them and accepted that the additional labelling requirement would unduly burden industry.

In 2016, the average glass recycling rate in the EU reached 74%. Consumers are well aware of, and actively participating in, national glass recovery and recycling schemes. There is therefore no need for any mandatory recycling symbols on glass packaging.

The requirement to display these additional logos puts an additional operative and financial burden on exporters as market-specific labels for Croatia are needed. This creates an obstacle to the free movement of goods and amounts to a technical barrier to intra-EU trade.

**For the reasons set out above we believe that the measures in question constitute a barrier to trade. The measures are disproportionate and impact companies, in particular small and medium-sized businesses and those seeking an entry into the market, adversely.**

**We would encourage the Commission and Member States to submit Detailed Opinions under the TRIS procedure to urge Croatia to eliminate these rules that are in breach with the Single Market.**